

# OFFICIAL CODE OF GEORGIA ANNOTATED

---

## 2015 Supplement

Including Acts of the 2015 Regular Session of the General Assembly

---

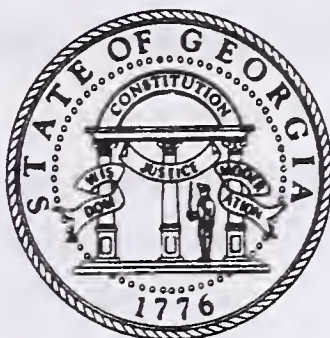
*Prepared by*

The Code Revision Commission

The Office of Legislative Counsel

*and*

The Editorial Staff of LexisNexis®



Published Under Authority of the State of Georgia

---

## Volume 35 2010 Edition

Title 47. Retirement and Pensions

---

Including Annotations to the Georgia Reports  
and the Georgia Appeals Reports

---

**Place in Pocket of Corresponding Volume of  
Main Set**

---

LexisNexis®  
Charlottesville, Virginia

COPYRIGHT © 2011—2015  
BY  
THE STATE OF GEORGIA

---

All rights reserved.

ISBN 978-0-327-11074-3 (set)  
ISBN 978-1-4224-6359-8

5015532

## **THIS SUPPLEMENT CONTAINS**

### **Statutes:**

All laws specifically codified by the General Assembly of the State of Georgia through the 2015 Regular Session of the General Assembly.

### **Annotations of Judicial Decisions:**

Case annotations reflecting decisions posted to LexisNexis® through April 3, 2015. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

### **Annotations of Attorney General Opinions:**

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through April 3, 2015.

### **Other Annotations:**

References to:

Emory Bankruptcy Developments Journal.  
Emory International Law Review.  
Emory Law Journal.  
Georgia Journal of International and Comparative Law.  
Georgia Law Review.  
Georgia State University Law Review.  
John Marshall Law Review.  
Mercer Law Review.  
Georgia State Bar Journal.  
Georgia Journal of Intellectual Property Law.  
American Jurisprudence, Second Edition.  
American Jurisprudence, Pleading and Practice.  
American Jurisprudence, Proof of Facts.  
American Jurisprudence, Trials.  
Corpus Juris Secundum.  
Uniform Laws Annotated.  
American Law Reports, First through Sixth Series.  
American Law Reports, Federal.

### **Tables:**

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2015 Regular Session of the General Assembly.



**Indices:**

A cumulative replacement index to laws codified in the 2015 supplement pamphlets and in the bound volumes of the Code.

**Contacting LexisNexis®:**

Visit our Website at <http://www.lexisnexis.com> for an online bookstore, technical support, customer service, and other company information.

If you have questions or suggestions concerning the Official Code of Georgia Annotated, please write or call toll free at 1-800-833-9844, fax at 1-518-487-3584, or email us at [Customer.Support@lexisnexis.com](mailto:Customer.Support@lexisnexis.com). Direct written inquiries to:

LexisNexis®

Attn: Official Code of Georgia Annotated

701 East Water Street

Charlottesville, Virginia 22902-5389



## **TITLE 47**

### **RETIREMENT AND PENSIONS**

Chap.

1. General Provisions, 47-1-1 through 47-1-86.
2. Employees' Retirement System of Georgia, 47-2-1 through 47-2-360.
3. Teachers Retirement System of Georgia, 47-3-1 through 47-3-142.
4. Public School Employees Retirement System, 47-4-1 through 47-4-121.
5. Georgia Municipal Employees Benefit System, 47-5-1 through 47-5-72.
6. Georgia Legislative Retirement System, 47-6-1 through 47-6-101.
7. Georgia Firefighters' Pension Fund, 47-7-1 through 47-7-127.
11. Judges of the Probate Courts Retirement Fund of Georgia, 47-11-1 through 47-11-91.
14. Superior Court Clerks' Retirement Fund of Georgia, 47-14-1 through 47-14-91.
16. Sheriffs' Retirement Fund of Georgia, 47-16-1 through 47-16-123.
17. Peace Officers' Annuity and Benefit Fund, 47-17-1 through 47-17-105.
18. Social Security Coverage for Employees of the State and Political Subdivisions of the State, 47-18-1 through 47-18-80.
19. State Employees' Assurance Department, 47-19-1 through 47-19-10.
20. Public Retirement Systems Standards, 47-20-1 through 47-20-87.
21. Regents Retirement Plan, 47-21-1 through 47-21-25.
23. Georgia Judicial Retirement System, 47-23-1 through 47-23-124.
25. Magistrates Retirement Fund, 47-25-1 through 47-25-101.

CHAPTER 1

GENERAL PROVISIONS

Article 1		Article 6	
In General		Conformity with Federal Law	
Sec.		Sec.	
47-1-12.	Investment and reinvestment of assets of local retirement system; valuation and limitation on investments; duties of state auditor.	47-1-82.	Maximum annual additions and maximum benefit payable limited to that allowed by federal law.
47-1-16.	Public retirement systems prohibited from having insurable interest in members; prohibition on expending or obligating funds for purchase of life insurance on members; exception.	47-1-83.	Vesting of member's accrued benefit as of date of termination or partial termination of public retirement or pension system.

ARTICLE 1

IN GENERAL

47-1-12. Investment and reinvestment of assets of local retirement system; valuation and limitation on investments; duties of state auditor.

- (a) The board of trustees of any local retirement system shall have full power to invest and reinvest assets of the retirement system and to purchase, hold, sell, assign, transfer, and dispose of any securities and other investments in which assets of the retirement system have been invested, any proceeds of any investments, and any money belonging to the retirement system; provided, however, that, except as otherwise provided in this Code section, such power shall be subject to all terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of this title in making and disposing of their investments.
- (b) Notwithstanding the provisions of Code Section 33-11-21, the board of trustees of any local retirement system shall not be restricted to investing in those equities which have paid a cash dividend in at least three of the last five years preceding the purchase of such equities.
- (c) Nothing in this Code section shall be construed to limit or restrict the authority of the board of trustees of any retirement system to invest or reinvest assets of such system in such manner and under such conditions as are authorized by law.
- (d) The state auditor shall monitor the investment activity of local retirement systems and shall submit a report to the Governor and the



presiding officer of each chamber of the General Assembly describing the effect, if any, changes in investment policy have had on those systems. Such report shall be submitted not later than December 31, 2001. (Code 1981, § 47-1-12, enacted by Ga. L. 1986, p. 1240, § 1; Ga. L. 1996, p. 651, § 3; Ga. L. 1998, p. 126, § 1; Ga. L. 2000, p. 2, § 3; Ga. L. 2015, p. 898, § 1/HB 266.)

**The 2015 amendment**, effective July 1, 2015, substituted “Article 7 of Chapter 20 of this title” for “the laws of this state upon domestic life insurance companies” near the end of subsection (a).

**47-1-16. Public retirement systems prohibited from having insurable interest in members; prohibition on expending or obligating funds for purchase of life insurance on members; exception.**

No public retirement system in this state shall have an insurable interest in active or retired members of such retirement system. No public retirement system shall have the authority to expend or obligate funds under the control of such retirement system to purchase life insurance on its members except where all benefits are paid to a member’s estate or to a beneficiary designated by the individual member. (Code 1981, § 47-1-16, enacted by Ga. L. 2012, p. 673, § 1/HB 297.)

**Effective date.** — This Code section became effective May 1, 2012.

## ARTICLE 3

### INCREASE OF BENEFITS TO OFFSET TAXES

**47-1-30. Authority to increase benefits.**

**Editor’s notes.** — For the list described in paragraph (a)(2), see Ga. L. 1989, Ex. Sess. p. 5.

## ARTICLE 6

### CONFORMITY WITH FEDERAL LAW

**47-1-82. Maximum annual additions and maximum benefit payable limited to that allowed by federal law.**

Notwithstanding any other provisions of this title to the contrary, the maximum annual additions and maximum benefit payable to any active or retired member or beneficiary of a public retirement or pension system subject to this title shall be limited to such extent as



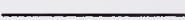
may be necessary to conform to the requirements of subsections (b) and (c) of Section 415 of the federal Internal Revenue Code for a qualified retirement plan. (Code 1981, § 47-1-82, enacted by Ga. L. 2005, p. 535, § 2/HB 460; Ga. L. 2009, p. 947, § 7/HB 202; Ga. L. 2010, p. 427, § 3/HB 969; Ga. L. 2010, p. 1207, § 64/SB 436; Ga. L. 2014, p. 223, § 1/HB 843.)

The 2014 amendment, effective July 1, 2014, rewrote this Code section.

47-1-83. Vesting of member’s accrued benefit as of date of termination or partial termination of public retirement or pension system.

In accordance with subsection (a) of the federal Treasury Regulation Section 1.401-6, in the event of a termination or partial termination of a public retirement or pension system, a member’s accrued benefit as of the date of such termination or partial termination, to the extent then funded, shall be nonforfeitable and fully vested under federal Internal Revenue Code requirements. (Code 1981, § 47-1-83, enacted by Ga. L. 2009, p. 947, § 8/HB 202; Ga. L. 2014, p. 223, § 2/HB 843.)

The 2014 amendment, effective July 1, 2014, rewrote this Code section.



CHAPTER 2

EMPLOYEES’ RETIREMENT SYSTEM OF GEORGIA

Article 1		Sec.	
General Provisions			
Sec.			
47-2-1.	Definitions.	47-2-22.	membership of board; vacancies; expenses; oath; quorum.
47-2-2.	Involuntary separation from employment; grounds and procedures for discharge of employees.		Election of chairperson and director; actuarial services; application of state system of personnel administration; payment of costs of personnel administration.
Article 2		Article 5	
Creation, Administration, and Management of the Assets of the Retirement System		Service Creditable Toward Retirement Benefits	
47-2-21.	Power and duty of board of trustees to administer and operate retirement system;	47-2-91.	Credit for accumulations of forfeited annual and sick leave.
		47-2-96.	Prior service credit; payments required to obtain credit.



Article 7

Retirement Allowances, Disability Benefits, Spouses' Benefits

Sec.

47-2-123. Allowance payable upon death, disability, or involuntary separation from employment; restrictions on separation for disability; restrictions on entitlement to involuntary separation benefits.

Article 8

Provisions Applicable to Particular Groups of Employees

PART 3

TEACHERS AND MEMBERS OF THE TEACHERS RETIREMENT SYSTEM OF GEORGIA

47-2-181. Transfer of service credits and accumulated contributions from the Teachers Retirement System of Georgia to this retirement system; transfer of funds.

PART 9

JUDGES AND OTHER COURT EMPLOYEES; CERTAIN COUNTY EMPLOYEES

47-2-292. Merit system of personnel administration for county revenue employees; membership in retirement system; contributions; credit for prior service.

Sec.

47-2-292.1. Tax commissioners, tax collectors, and tax receivers and all employees in their offices employed on or after July 1, 2012, ineligible for membership in the Employees' Retirement System of Georgia by operation of law.

47-2-295.1. Probation and intake officers of Department of Juvenile Justice.

PART 10

EMPLOYEES OF CERTAIN STATE AUTHORITIES AND COMMISSIONS

47-2-316. Membership in the retirement system of officers or employees of Georgia Agricultural Exposition Authority.

47-2-317. Membership in the retirement system of officers and employees of the Georgia Agrirama Development Authority [Repealed].

47-2-323. Membership in retirement system of employees of Georgia Public Defender Council; creditable service; contributions.

Article 10

Georgia State Employees' Pension and Savings Plan

47-2-357. Withdrawal; employer contributions; vesting; date of election.

ARTICLE 1

GENERAL PROVISIONS

47-2-1. Definitions.

As used in this chapter, the term:

- (1) "Accumulated contributions" means the sum of all the amounts deducted from the earnable compensation of a member or paid by the member to establish or reestablish credit for service, which amounts are credited to the member's individual account in the annuity savings fund, together with regular interest thereon. Beginning July 1, 1980, "accumulated contributions" also includes the amount of



employee contributions paid by the employer on behalf of the employee and credited to the employee's individual account in the annuity savings fund, together with regular interest thereon, excluding employee contributions paid by the employer or the employee for group term life insurance.

(2) "Actuarial equivalent" means a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees.

(3) "Annuity" means annual payments for life derived from the accumulated contributions of a member.

(4) "Annuity reserve" means the present value of all payments to be made on account of an annuity, or benefit in lieu of an annuity, computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees.

(5) "Annuity savings fund" means the fund set forth under Code Section 47-2-51.

(6) "Average final compensation" means the average annual earnable compensation of any employee during his or her last five years of creditable service or, if the employee has had less than five years of creditable service, his or her average annual earnable compensation during his or her total creditable service.

(7) "Beneficiary" means any person in receipt of a pension, an annuity, a retirement allowance, or other benefit under this chapter.

(8) "Board of trustees" means the board of trustees provided for in Code Section 47-2-21 to administer the retirement system.

(9) Reserved.

(10) Reserved.

(11) "Court of record" means state courts, city courts, superior courts, the Georgia Court of Appeals, and the Supreme Court of Georgia handling within their jurisdiction general state law exclusively. This definition shall have no effect on creditable service determined or prior service certificates issued by the board of trustees before February 13, 1956.

(12) "Credit" means creditable service, as defined in this Code section.

(13) "Creditable service" means prior service plus membership service and any other service recognized as creditable service under this chapter.

(14) "Division A" means the division within the retirement system of members who are part of the Employees' Social Security Coverage Group, as set forth in Code Section 47-2-71.



(15) "Earnable compensation" means the full rate of regular compensation payable to a member employee for his or her full normal working time, excluding any supplements from local funds. In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in cash. Such term shall include contributions made to a qualified transportation plan, within the meaning of Section 132(f) of the federal Internal Revenue Code, and before tax or salary deferral contributions made under Section 125, 401(k), 402(g)(3), 457, or 414(h) of the federal Internal Revenue Code to this retirement system or to any other retirement plan maintained by an employer.

(16) "Employee" means:

(A) Any regularly classified worker, elected or appointed officer, or employee of a state agency or any employee of a county, city-county, or city board, which agency or board is subject to the state system of personnel administration created by Chapter 20 of Title 45 and the State Personnel Board, including a merit system for employees of the Department of Public Safety;

(B) Any employee or officer of any other department, bureau, board, institution, or commission of the state:

(i) Which department, bureau, board, or commission operates under a merit system of personnel administration;

(ii) Which department operates under a tenure system as established by law; or

(iii) Which department, bureau, board, or commission becomes eligible for inclusion in the retirement system by Act of the General Assembly

who receives payment for performance of personal services from the state or any department, bureau, institution, board, or commission of the state or from a county, city-county, or city board and who is employed in a position normally requiring actual performance of duty during not less than nine months of the year. "Employee" shall not include members of the Teachers Retirement System of Georgia, members of the Public School Employees Retirement System, any person on the payroll of a third party with whom an employer has contracted for the provision of such person's services, or any person classified by an employer as other than a common law employee for federal tax purposes, even if a court, tribunal, or administrative agency determines that such person is a common law employee and not an independent contractor for federal tax purposes; or

(C) Any other provisions of law to the contrary notwithstanding, any and all civilians who are employed in or with the Army



National Guard of Georgia and the Air National Guard of Georgia shall, upon establishment of a merit system for such civilian employees and upon the approval of the adjutant general, be entitled to the retirement allowances, benefits, and privileges provided by this chapter, notwithstanding that such employees may be paid by federal funds. No credit shall accrue to such civilian employees for any service rendered prior to the effective date of coverage under the retirement system. The adjutant general is authorized to make such arrangements and agreements as may be necessary or proper in order to effect deductions from the salaries or wages of such civilian employees as may be necessary or proper in the administration of the retirement system as to such civilian employees. It is the intent of the General Assembly that such persons be included in this definition only if federal funds are available for payment of employer contributions for such employees and other expenses of participation.

(16.1) "Employee" may include new certified professional personnel employed on and after July 1, 1983, for the first time by the State Board of Education or by the State Department of Education only if such personnel elect membership in the retirement system pursuant to subsection (h) of Code Section 47-3-60. As used in this paragraph, the term "certified professional personnel" shall have the meaning provided for in paragraph (8.1) of Code Section 47-3-1.

(16.2) "Employee" shall not include certified professional personnel who are in the unclassified service as defined by Code Section 45-20-2 and who are employed by the State Board of Education or by the State Department of Education and who elect to become members of the Teachers Retirement System of Georgia pursuant to the authority of subsection (i) of Code Section 47-3-60. As used in this paragraph, the term "certified professional personnel" shall have the meaning provided for in paragraph (8.1) of Code Section 47-3-1.

(16.3) "Employee" may include persons employed on and after July 1, 1987, for the first time by the Technical College System of Georgia or by postsecondary vocational-technical schools governed by the Technical College System of Georgia only if such personnel elect membership in the retirement system pursuant to subsection (j) of Code Section 47-3-60.

(16.4) "Employee" shall not include persons who are employed by the Technical College System of Georgia or by a postsecondary vocational-technical school governed by the Technical College System of Georgia and who elect to become members of the Teachers Retirement System of Georgia pursuant to the authority of subsection (j) of Code Section 47-3-60.

(16.5) "Employee" shall not include personnel employed by the State Board of Education or by the State Department of Education



who are authorized to elect and elect to become or remain members of the Teachers Retirement System of Georgia pursuant to applicable provisions of Chapter 3 of this title.

(16.6) "Employee" shall not include an individual classified by an employer as an independent contractor or a leased employee within the meaning of Section 414(n) of the federal Internal Revenue Code, even if such individual is later reclassified by the Internal Revenue Service as a common law employee.

(17) "Employer" means:

(A) The state or any department, bureau, institution, board, or commission of the state or any county, city-county, or city board, the employees of which are subject to the state system of personnel administration created by Chapter 20 of Title 45 and the State Personnel Board, including a merit system for employees of the Department of Public Safety, and all state departments under a tenure system as established by law, provided that such county, city-county, or city board may notify the board of trustees that it will not participate in the benefits of the retirement system, such notice to be given in writing on or before the commencement date or before persons are employed by it. Any employee of a county, city-county, or city board having an existing local retirement system may elect to continue to participate in such existing local system but shall not participate in two systems, and his or her election shall be final on the commencement date under this chapter. Any county, city-county, or city employee who elects to become a member of this retirement system and who was a member of an existing local retirement system shall transfer to the board of trustees any equity he or she has in the local system;

(B) Any other provisions of law to the contrary notwithstanding, the adjutant general is authorized, though not directed, to establish a merit system and to perform all of the duties and obligations of an "employer" for all civilians employed in or with the Army National Guard of Georgia and the Air National Guard of Georgia, even though such employees may be paid with federal funds. The adjutant general is further authorized to make and enter into such agreements and take such actions as are necessary to provide for all contributions and payments specified in this chapter, from funds made available by the federal government, and otherwise to comply with this chapter so as to make this chapter applicable to such civilian employees; or

(C) Any new state agency described under Code Section 47-2-70.1 and any other entity authorized by law to report any of its employees as members of this system.



(18) "Expense fund" means the fund set forth under Code Section 47-2-60.

(19) "Group term life insurance" means the survivors benefits established under Code Section 47-2-128.

(20) "Involuntary separation from employment without prejudice" means separation or release from service other than by the willing choice of a member, provided that such member has not been convicted in a court of competent jurisdiction of any crime involving moral turpitude or malfeasance in office or has not been forced to make restitution for any funds or property wrongfully taken by the member. Involuntary separation shall not include the defeat in an election of an elected official who becomes a member of this retirement system for the first time on or after July 1, 1971.

(21) "Involuntary separation from employment with prejudice" means separation or release from service other than by the willing choice of a member who has been convicted in a court of competent jurisdiction of a crime involving moral turpitude or malfeasance in office or who has been forced to make restitution for any funds or property wrongfully taken by the member.

(22) "Medical board" means the board of physicians established under Code Section 47-2-24 for the purpose of arranging for and passing upon medical examinations required under this chapter.

(23) "Member" means any employee included in the membership of this retirement system. On and after July 1, 1967, no employee shall become a member unless his or her position with an employer, as defined in paragraph (17) of this Code section, is his or her primary occupation and such position requires that the employee spend at least the number of hours specified in regulations adopted by the board of trustees in the actual performance of his or her duties, provided that in no case shall the number of hours be less than 30 hours per week during at least nine months of a year.

(24) "Membership service" means service which is rendered by an employee while he or she is a member of the retirement system and for which credit is allowable under this chapter.

(25) "Option one," "option two," "option three," and "option four" mean the optional forms in which a member may elect to receive his or her retirement allowance, which options are set forth in Code Section 47-2-121.

(26) "Pension" means periodic payments for life derived from contributions of the state.

(27) "Pension accumulation fund" means the fund set forth in Code Section 47-2-55.



(28) "Pension reserve" means the present value of all payments to be made on account of a pension, or benefit in lieu of a pension, computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees.

(28.1) "Plan year" means the 12 month period beginning on July 1 of each year.

(29) "Prior service" means service rendered prior to January 1, 1954, for which credit is allowable under this chapter.

(30) "Prior service certificate" means the certificate issued to a member under this chapter as proof of his or her prior service.

(31) "Regular interest" means interest at such a rate as shall be determined by the board of trustees in accordance with Code Section 47-2-26, which interest shall be compounded annually.

(32) "Retirement" means withdrawal from service with a retirement allowance granted under this chapter.

(33) "Retirement allowance" means the sum of the annuity and the pension, or any optional benefit payable in lieu thereof. All retirement allowances shall be payable in equal monthly installments, except that the board of trustees may adopt regulations providing for the payment of a lump sum, not to exceed the equivalent actuarial value of the retirement allowance, in lieu of a retirement allowance of less than \$10.00 per month or in lieu of part of an annuity.

(34) "Retirement system" means the Employees' Retirement System of Georgia.

(35) "Service" means service rendered as an employee and paid for by an employer.

(36) "Service credit" means creditable service, as defined in this Code section.

(37) "Within one year after discharge from the armed forces" means within one year after the termination of the member's active service in the military or naval forces of the United States and shall not include any military reserve or naval reserve service. (Ga. L. 1949, p. 138, § 1; Ga. L. 1950, p. 416, § 1; Ga. L. 1951, p. 394, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 349, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 160, § 1; Ga. L. 1956, p. 54, § 1; Ga. L. 1961, p. 101, §§ 1, 2; Ga. L. 1961, p. 143, § 1; Ga. L. 1967, p. 751, § 1; Ga. L. 1968, p. 195, § 1; Ga. L. 1971, p. 96, § 1; Ga. L. 1980, p. 925, § 1; Ga. L. 1982, p. 3, § 47; Ga. L. 1983, p. 1859, § 1; Ga. L. 1984, p. 1296, § 1; Ga. L. 1985, p. 209, § 1; Ga. L. 1986, p. 1543, § 1; Ga. L. 1987, p. 575, §§ 5, 6; Ga. L. 1988, p. 1351, § 1; Ga. L. 1988, p. 1742, § 1; Ga. L. 1989, p. 52, § 1; Ga. L. 2005, p. 535, §§ 3, 4/HB 460; Ga. L. 2006, p. 93, § 1/SB 466;



Ga. L. 2008, p. 562, § 1/SB 434; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2009, p. 947, §§ 9-12/HB 202; Ga. L. 2010, p. 1207, §§ 3, 64/SB 436; Ga. L. 2012, p. 413, § 2/HB 805.)

**The 2012 amendment**, effective July 1, 2012, inserted “or her” throughout this Code section; substituted “the employee” for “he” in paragraph (6); substituted “subject to the state system of personnel administration created by Chapter 20 of Title 45 and the State Personnel Board” for “under the State Personnel Administration” in subparagraph (16)(A); added “or” at the end of the undesignated language following division (16)(B)(iii); substituted “as defined by Code Section 45-20-2” for “of the State Personnel Administration” in the first sentence of paragraph (16.2); in subparagraph (17)(A), substituted “subject to the state system of personnel administration created by Chapter 20 of Title 45 and the State Personnel Board” for “under the State Personnel Administration” in the first sentence and substituted a semicolon for a period at the end of the last sentence; substituted “; or” for a period at the end of subparagraph (17)(B); substituted “Any” for “‘Employer’ shall include any” in subparagraph (17)(C); and inserted “or she” in paragraph (24).

**Editor’s notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: “The purpose of

this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

## JUDICIAL DECISIONS

**Cited** in *Silliman v. Cassell*, 292 Ga. 464, 738 S.E.2d 606 (2013).

### 47-2-2. Involuntary separation from employment; grounds and procedures for discharge of employees.

(a) The provisions of this Code section are supplemental to, and not in lieu of, the provisions of paragraphs (20) and (21) of Code Section 47-2-1 defining “involuntary separation from employment without prejudice” and “involuntary separation from employment with prejudice.”

(b) The word “employee” as defined in paragraph (2) of subsection (c) of this Code section shall include any such employee in the classified or unclassified service of the state system of personnel administration provided for by Chapter 20 of Title 45. The provisions of that law or any



rules or regulations promulgated pursuant thereto relative to the dismissal of employees from employment shall not be applicable to the discharge of an employee from employment pursuant to the provisions of this Code section. Any such employee who is otherwise subject to that law and rules or regulations promulgated pursuant thereto shall continue to be subject thereto for the purpose of any adverse personnel action other than discharge from employment or suspension pursuant to this Code section, but for the purposes of such discharge from employment or suspension, the provisions of this Code section shall be exclusive.

(c) As used in this Code section, the term:

(1) "Duties" means duties and responsibilities assigned by an employer to an employee which are reasonably related to the lawful objectives and responsibilities of the employer and which are reasonably related to the position of employment held by the employee for which the employee is compensated.

(2) "Employee" means an employee, other than an elected public official, a public official selected by a vote of a board to serve at the pleasure of the board, or a public official appointed pursuant to law for a specific term of office, as defined in paragraph (16) of Code Section 47-2-1 who was a member of the retirement system prior to April 1, 1972, and who, if involuntarily separated from employment without prejudice, has sufficient membership service under the retirement system to qualify for a retirement allowance because of such involuntary separation from employment.

(3) "Employer" means any person or group of persons authorized by law or having authority delegated by law to discharge an employee.

(4) "Insubordination" means the refusal by an employee to carry out the employee's duties when instructed to do so by the employer or by the employee's supervisor upon the instructions or under the authority of the employer.

(5) "Irresponsible performance of duties" means the performance of any duties by an employee or the use of an employee's position of employment for any one or more of the following purposes:

(A) To make a financial gain or receive materials or services having financial value, except compensation received as an employee, under circumstances which would lead a reasonable person to believe that the financial gain or the receipt of materials or services was improperly related to the performance of duties by the employee;

(B) To purchase or authorize the purchase of materials or services from public funds when the employee knows or reasonably



could be expected to know that the amount paid for such materials or services unreasonably exceeds the amount for which substantially equivalent materials or services could be purchased without excessive delay or inconvenience;

(C) To use publicly owned real or personal property or publicly supplied services for personal use when the employee knows or reasonably could be expected to know that such personal use of public property or services is unauthorized or improper; or

(D) To expend or authorize the expenditure of public funds in a manner which would lead a reasonable person to believe the employee shows a reckless disregard for the obligation to taxpayers to expend public funds in a prudent and efficient manner.

(6) "Malingering" means frequent absences from work or the failure to perform duties during working hours because of claims of illness which are unsubstantiated as determined pursuant to subsection (e) of this Code section.

(7) "Neglect of duty" means the repeated failure by an employee to carry out the employee's duties, either because of excessive unexcused absences from work or a failure to perform or the unsatisfactory performance of duties while at work or a combination thereof.

(8) "Proof of illness" means a written opinion by one or more physicians designated by the medical board provided for by Code Section 47-2-24 stating that an employee's absences from work or unsatisfactory performance of duties are reasonably related to an illness suffered by the employee and describing the nature of such illness.

(9) "Unsatisfactory performance of duties in a willful manner" means the unsatisfactory performance of duties by an employee when the past satisfactory performance of duties by the employee indicates the employee's unsatisfactory performance is willful as determined pursuant to subsection (f) of this Code section.

(d) An employee may be discharged from employment pursuant to the requirements of this Code section for insubordination, irresponsible performance of duties, malingering, neglect of duty, or unsatisfactory performance of duties in a willful manner or for any combination of such reasons. Any employee so discharged from employment shall not be entitled to and shall not receive a retirement benefit based on involuntary separation from employment without prejudice pursuant to Code Section 47-2-123.

(e) An employer shall have a reasonable basis for believing an employee is malingering when:



(1) The employee has a pattern of absences from work because of illness or unsatisfactory performance of duties because of illness or a pattern of absences from work and unsatisfactory performance of duties because of illness;

(2) The employer has requested the employee, in writing, to provide proof of illness and the employee has been given a reasonable opportunity, which shall not be less than 30 days after the date of the request made by the employer, to respond to the employer's request; and

(3) The employee has provided no or unsatisfactory proof of illness to the employer in response to the request made pursuant to paragraph (2) of this subsection.

(f) An employer shall have a reasonable basis for believing an employee is engaging in unsatisfactory performance of duties in a willful manner when:

(1) The past work history of the employee indicates the employee is capable of satisfactory performance of duties;

(2) The unsatisfactory performance of duties became increasingly apparent after the employee qualified for a retirement benefit based on involuntary separation from employment without prejudice; and

(3) The employee does not claim illness as a basis for unsatisfactory performance of duties and has offered no proof of illness to the employer.

(g) When an employer is considering the discharge from employment of an employee for any one or more reasons specified in subsection (d) of this Code section, the employer shall transmit a written notice to the employee containing the following:

(1) An explanation of the conduct or deficiencies of the employee which form the basis for the employer's considering the discharge of the employee;

(2) A statement that such conduct may result in the employee's discharge from employment on a specified date, which shall not be earlier than the tenth day following the date of the notice in the case of insubordination or irresponsible performance of duties and not earlier than the thirtieth day following the date of the notice if the basis for considering the discharge of the employee is for a reason or reasons other than insubordination or irresponsible performance of duties;

(3) A statement that the employee's discharge from employment for the reasons specified in the notice shall not constitute involuntary separation from employment without prejudice within the meaning



of the applicable provisions of the Employees' Retirement System of Georgia and that if discharged, the employee shall not be entitled to receive and shall not receive a retirement benefit based on involuntary separation from employment without prejudice;

(4) A statement that the employee has a right to a hearing before the employer on a specified date, which shall be at least five days prior to the date specified for the employee's discharge from employment; and

(5) A statement that at the hearing before the employer, the employee shall be given an opportunity to offer explanations for the employee's conduct or deficiencies and to present evidence on the employee's behalf.

(h) An employee being considered for discharge from employment because of insubordination or irresponsible performance of duties may be suspended without pay, except to the extent the employee has accumulated annual leave, pending the completion of the procedures provided for in subsections (g) and (i) of this Code section. If the employer's final decision is not to discharge the employee or if the employee's discharge is not upheld by the court upon judicial review provided for in Code Section 47-2-3, the compensation denied to the employee during suspension shall be reimbursed to the employee and, if applicable, accumulated leave used during the suspension shall be reinstated.

(i) If an employee subject to the provisions of subsection (g) of this Code section fails to respond to the notice sent to the employee pursuant to said subsection or if the employer is not satisfied with the explanation made by the employee for the conduct or deficiencies specified in said notice and is not satisfied with the evidence presented in the employee's behalf, the employee may be discharged from employment on the date specified in said notice or on such later date as shall be specified in writing by the employer to the employee. The employee shall be notified, in writing, of the final decision of the employer and such notice shall provide an explanation for the employer's decision.

(j) An employer discharging an employee pursuant to this Code section shall prepare a written report to the board of trustees on the discharge of the employee. Any notices or other written communications to the employee which relate to the employer's decision to discharge the employee shall be attached to and made a part of the employer's report to the board of trustees.

(k) It shall be the duty of any employer considering the discharge of an employee for any reason or combination of reasons specified in subsection (d) of this Code section to follow the procedures specified in this Code section as a condition precedent to the discharge of such



employee. (Code 1981, § 47-2-2, enacted by Ga. L. 1984, p. 1296, § 2; Ga. L. 1985, p. 209, § 1; Ga. L. 1993, p. 86, § 1; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2012, p. 413, § 3/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted “state system of personnel administration” for “State Personnel Administration” in the first sentence of subsection (b).

**Editor’s notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: “The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and

which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

## ARTICLE 2

### CREATION, ADMINISTRATION, AND MANAGEMENT OF THE ASSETS OF THE RETIREMENT SYSTEM

#### **47-2-21. Power and duty of board of trustees to administer and operate retirement system; membership of board; vacancies; expenses; oath; quorum.**

(a) The administration and responsibility for the proper operation of the retirement system and for effectuating this chapter are vested in the board of trustees, which shall be organized immediately after a majority of the trustees have qualified and taken the oath of office.

(b) The board of trustees shall consist of seven trustees as follows:

(1) The state auditor, ex officio;

(2) The state treasurer, ex officio;

(3) The commissioner of administrative services, ex officio;

(4) One member appointed by the Governor for a term of four years, provided that the first such term was from date of appointment to June 30, 1951;

(5) Two trustees elected by the trustees set forth in paragraphs (1) through (4) of this subsection for a term of four years, provided that



in their first terms one served for a term from the date of election to June 30, 1950, and the other for a term from the date of election to June 30, 1952; provided, further, that each of these two members shall have had at least five years of creditable service with an agency included in this retirement system; and

(6) The seventh trustee shall be a citizen of this state but not a member of the retirement system nor shall he or she hold or be a candidate for public office during his or her term of office as a trustee. He or she shall have had at least ten years of experience in the investment of moneys and shall be elected by the remaining trustees for a term of four years, provided that his or her first term was from the date of election to June 30, 1953.

(c) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the original appointment or election.

(d) The trustees may receive the daily expense allowance authorized for members of the General Assembly for each day spent attending meetings of the board of trustees and any committee meetings called pursuant to authorization of the board of trustees and for time spent in necessary travel. In addition to such amount, the trustees shall be reimbursed for all actual travel and other expenses necessarily incurred through service on the board of trustees. State officials serving ex officio shall not receive the daily expense allowance but shall be entitled to reimbursement of actual expenses.

(e) Each trustee shall, within ten days after his or her appointment or election, take an oath of office that he or she will diligently and honestly administer the affairs of the board of trustees which have been entrusted to him or her and that he or she will not knowingly violate or willingly permit to be violated any law applicable to the retirement system. The oath shall be subscribed to by the trustee, certified by the officer before whom it is taken, and filed immediately in the office of the Secretary of State.

(f) Five trustees at any meeting of the board of trustees shall constitute a quorum to transact business. Each trustee shall be entitled to one vote and four votes shall be necessary for a decision by the board of trustees. (Ga. L. 1949, p. 138, § 6; Ga. L. 1951, p. 394, § 9; Ga. L. 1982, p. 3, § 47; Ga. L. 1991, p. 274, § 1; Ga. L. 1993, p. 1402, § 18; Ga. L. 1993, p. 1690, § 2; Ga. L. 2010, p. 863, § 3/SB 296; Ga. L. 2012, p. 413, § 4/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted “commissioner of administrative services” for “commissioner of personnel administration” in paragraph

(b)(3); and inserted “or she” and “or her” throughout paragraph (b)(6) and subsection (e).

**Editor’s notes.** — Ga. L. 2012, p. 413,



§ 1/HB 805, not codified by the General Assembly, provides that: "The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act." The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: "This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012." Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

**47-2-22. Election of chairperson and director; actuarial services; application of state system of personnel administration; payment of costs of personnel administration.**

(a) The board of trustees shall elect a chairperson from its membership and shall employ a director who shall not be a trustee.

(b) The board of trustees shall engage such actuarial and other services as shall be required to transact the business of the retirement system.

(c) The director and all other employees of the board of trustees shall be governed by such rules of position, classification, appointment, promotion, demotion, dismissal, transfer, qualification, compensation, seniority, privileges, tenure, and other employment standards as may now or hereafter be established under the state system of personnel administration provided for by Chapter 20 of Title 45, including the rules and regulations promulgated by the State Personnel Board.

(d) The board of trustees shall pay its share of the administrative costs of operating the state system of personnel administration in the manner prescribed in Code Section 45-20-4. (Ga. L. 1949, p. 138, § 6; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2012, p. 413, § 5/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted "chairperson" for "chairman" in subsection (a); substituted "state system of personnel administration provided for by Chapter 20 of Title 45, including the rules and regulations promulgated by the State Personnel Board" for "State Personnel Administration" in subsection (c); and substituted the present provisions of subsection (d) for the former

provisions, which read: "The board of trustees shall pay its pro rata share of the administrative costs of operating the State Personnel Administration in the manner prescribed in paragraph (6) of subsection (b) of Code Section 45-20-4."

**Editor's notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: "The purpose of this Act is to make conforming amend-



ments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, pro-

vides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

## ARTICLE 5

### SERVICE CREDITABLE TOWARD RETIREMENT BENEFITS

#### **47-2-91. Credit for accumulations of forfeited annual and sick leave.**

(a) As used in this Code section, the term:

(1) “Classified member” means a member of the retirement system who is in the classified service as defined in Code Section 45-20-2.

(2) “Commissioner” means the commissioner of administrative services provided for by Code Section 50-5-1.

(3) “Compensatory time” means time off from work which is used in lieu of annual or sick leave to offset overtime service rendered by an employee when the employee is compensated by a fixed salary and is not financially compensated for such overtime service.

(4) “Elected state official” means the Governor, Lieutenant Governor, each member of the Public Service Commission, the Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Labor, Commissioner of Agriculture, each Justice of the Supreme Court, and each Judge of the Court of Appeals.

(5) “Unclassified member” means any member of the retirement system who is in the unclassified service as defined in Code Section 45-20-2 or who is otherwise not covered by the rules and regulations of the State Personnel Board, including elected state officials.

(b)(1) Accumulated days of forfeited annual and sick leave for which a member has not been paid shall constitute creditable service if such member has at least six months of such forfeited leave at the time of the member’s retirement. The member shall be given one month of



creditable service for each 20 days of forfeited annual and sick leave. Upon retirement of a classified member, the employer shall certify to the board of trustees the total amount of that member's forfeited annual and sick leave based on leave records for periods of service where employers have maintained adequate leave records. For periods of service where no leave records are available for classified members, forfeited leave for an undocumented period may be computed as provided in subsection (i) of this Code section. The determination of accumulated days of forfeited annual and sick leave for unclassified members shall be based on leave records for periods of service where employers have maintained adequate leave records. For periods of service where no leave records are available, forfeited leave for unclassified employees shall be computed as follows:

(A) When 15 years or more of leave records are available for an unclassified member, the determination of forfeited leave for undocumented periods shall be computed as provided in subsection (i) of this Code section; or

(B) When less than 15 years of leave records are available for an unclassified member, the determination of forfeited leave for undocumented periods shall be based on the one-year average amount of forfeited annual and sick leave calculated by the commissioner pursuant to subsection (f) of this Code section and as provided in subsection (g) of this Code section, subject to the limitation in subsection (j) of this Code section.

(2) For both classified and unclassified members, each employer shall contribute the same amount as would have been contributed by the employer had the member obtaining creditable service for forfeited annual and sick leave remained in state employment without change in compensation for a period of time equal to the amount of forfeited annual and sick leave for which creditable service is obtained.

(c) For unclassified members, the maximum number of days of annual and sick leave which may be accumulated in one year shall be in accordance with the rules and regulations of the State Personnel Board governing employees in classified service, as defined in Code Section 45-20-2.

(d) For the purposes of this Code section, compensatory time shall not be applicable to elected state officials and no elected state official may offset any annual or sick leave taken by any such official by any compensatory time which might otherwise be applicable to such official.

(e) When accumulated forfeited annual and sick leave is claimed for the purposes of this Code section by an elected state official based on records maintained by or pursuant to the order or supervision of the



elected state official, any such accumulated annual and sick leave accepted by the board of trustees shall, in addition to such records, be based on the elected state official's sworn statement that the amount of accumulated forfeited annual and sick leave claimed by the elected state official is true and correct.

(f) The commissioner shall select a random representative sample of employees who, as of June 30, 1985, have ten years or more of continuous service in the classified service as defined by Code Section 45-20-2. From an examination of the personnel records of the members in the sample, the commissioner shall calculate an annual average of the number of days of annual leave taken and an annual average of the number of days of sick leave taken by the members in the sample. The average days for annual leave taken and the average days for sick leave taken shall then each be deducted, respectively, from the maximum number of days of annual leave and the maximum number of days of sick leave which may be accumulated in one year under rules and regulations of the State Personnel Board by an employee in the classified service as defined by Code Section 45-20-2. The two figures resulting after making such reductions shall be added together and the resulting figure shall be forfeited annual and sick leave for each year of membership service for the purposes of subsection (g) of this Code section, subject to the limitation in subsection (j) of this Code section.

(g) The average amount of forfeited annual and sick leave calculated by the commissioner pursuant to subsection (f) of this Code section shall be supplied by that officer to all employers. When less than 15 years of leave records are available, the determination of forfeited annual and sick leave for unclassified employees with undocumented periods may be certified by the employer based on the average amount of forfeited annual and sick leave supplied by the commissioner. The amount which may be so certified shall be calculated by multiplying the figure representing the one-year average of forfeited annual and sick leave by the number of years of membership service for which leave records were not available at the time of retirement, subject to the limitation in subsection (j) of this Code section.

(h) For any member whose membership service includes service as both a classified and unclassified member, both classified and unclassified service may be considered in qualifying for undocumented forfeited annual and sick leave calculations based on 15 or more years where employers have maintained adequate records of annual and sick leave taken by members. When 15 or more years of leave records are available through a combination of both classified and unclassified service, forfeited annual and sick leave for an undocumented period may be computed as provided in subsection (i) of this Code section. When less than 15 years of leave records are available through a



combination of both classified and unclassified service for a member, then the undocumented forfeited leave for the unclassified service shall be calculated pursuant to subsection (g) of this Code section and undocumented forfeited leave for classified service shall be calculated pursuant to subsection (i) of this Code section, subject to the limitation in subsection (j) of this Code section. The two calculations shall then be added together to determine the total amount of forfeited leave for the undocumented period.

(i) The formula provided by this subsection may be utilized for computation of forfeited annual and sick leave during the undocumented periods of service described in paragraph (1) of subsection (b) and subparagraph (b)(1)(A) of this Code section. The formula is as follows:

(1) Compute the maximum earnable sick and annual leave for the undocumented period;

(2) Compute the total sick and annual leave taken for all periods in which documentation is available;

(3) Compute the average sick and annual leave taken per month by dividing the answer under paragraph (2) of this subsection by the total number of documented months;

(4) Multiply the answer under paragraph (3) of this subsection by the total number of months in the undocumented period; and

(5) Subtract the answer under paragraph (4) of this subsection from the answer under paragraph (1) of this subsection to determine total leave earned and not taken during the undocumented period.

(j) For unclassified employees who have less than 15 years of leave records available, the determination of forfeited annual and sick leave shall be limited to the lesser of the amount calculated pursuant to subsections (f) and (g) of this Code section or the average of actual forfeited annual and sick leave for which leave records are available, whichever is less.

(k) The board of trustees may adopt rules and regulations, not inconsistent with the provisions of this Code section, to aid in administering and carrying out the provisions of this Code section. (Ga. L. 1974, p. 1451, § 1; Ga. L. 1976, p. 393, § 1; Ga. L. 1979, p. 1022, § 1; Ga. L. 1985, p. 1624, § 2; Ga. L. 1993, p. 86, § 1; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2010, p. 1207, § 64/SB 436; Ga. L. 2012, p. 413, § 6/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted “as defined in Code Section 45-20-2” for “of the State Personnel Administration provided for by Chap-

ter 20 of Title 45” in paragraphs (a)(1) and (a)(5); substituted “administrative services provided for by Code Section 50-5-1” for “personnel administration provided for



in Code Section 45-20-4" in paragraph (a)(2); deleted "paragraph (2) of" following "defined in" in subsection (c); and substituted "as defined by Code Section 45-20-2" for "of the State Personnel Administration" in the first and third sentences of subsection (f).

**Editor's notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: "The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act." The separate Act referred to is Ga. L. 2012, p. 446/HB 642,

which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: "This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012." Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

#### **47-2-96. Prior service credit; payments required to obtain credit.**

(a) Any member of this retirement system who was previously an active member of the Georgia Judicial Retirement System and who has not withdrawn his or her employee contributions from such retirement system may elect to have all contributions made by or on behalf of such member transferred from such retirement system to this retirement system. Any such member shall notify the board of trustees of each retirement system.

(b) Upon receipt of the notice provided for in subsection (a) of this Code section, the Board of Trustees of the Georgia Judicial Retirement System shall transfer to the board of trustees of this retirement system all employer and employee contributions paid by or on behalf of the employee, together with regular interest thereon. The member is authorized, but not required, to pay such additional amount to the board of trustees as the member desires.

(c) If a member of this retirement system has withdrawn his or her employee contributions from the Georgia Judicial Retirement System, he or she may obtain creditable service in this retirement system as provided in subsection (d) of this Code section by paying to the board of trustees of this retirement system such amount as the member desires.

(d) Upon receipt of the funds provided for in subsection (b) or (c) of this Code section, the board of trustees of this retirement system shall credit the member with only the number of years of creditable service, not to exceed the actual years of prior service, as the amount so transferred or paid shall warrant without creating any accrued liability



as to this retirement system; provided, however, that no member shall be granted creditable service in excess of the service to which he or she was credited under the Georgia Judicial Retirement System. (Code 1981, § 47-2-96, enacted by Ga. L. 2014, p. 169, § 1/HB 477.)

**Effective date.** — This Code section became effective July 1, 2014.

## ARTICLE 7

### RETIREMENT ALLOWANCES, DISABILITY BENEFITS, SPOUSES' BENEFITS

#### **47-2-123. Allowance payable upon death, disability, or involuntary separation from employment; restrictions on separation for disability; restrictions on entitlement to involuntary separation benefits.**

(a) Upon the death or involuntary separation from employment without prejudice of any member in service, he or she shall be entitled to an allowance in accordance with subsection (c) of this Code section, provided that the provisions of this subsection that relate to “upon becoming involuntarily separated from employment without prejudice” shall not be applicable to any person who first becomes a member after March 31, 1972.

(b)(1) Subject to the provisions of paragraphs (2) through (5) of this subsection, any member in service who has at least 15 years of creditable service may be retired on a disability allowance by the board of trustees, upon written application to the board of trustees by the member or his or her employer and upon certification by the medical board that he or she is medically or physically incapable of further performance of his or her duties in the position he or she held at the time his or her disability originated, that incapacity is likely to be permanent, and that he or she should be retired; provided, however, that the medical board shall not consider any evidence of such disability which is not submitted within 12 months after the date the member submits his or her first application for a disability retirement. The board of trustees may retire such member not less than 30 days nor more than 90 days after execution and filing of the written application.

(2) A member making application for a disability retirement pursuant to paragraph (1) of this subsection shall at the same time submit a copy of such application together with any supporting documentation accompanying such application to his or her employing agency. The member shall thereafter provide the employing agency with any additional information or documentation which he



or she submits to the board of trustees in conjunction with such application.

(3) After receipt of the notice provided for in paragraph (2) of this subsection, the head of the member's agency or his or her designee shall conduct an interview with the member applying for disability retirement; provided, however, that any designee of the head of an agency shall be an official at such agency who is above the level of the applicant's immediate supervisor and who has the authority to make job assignment decisions. The interview shall be held within ten business days after receipt of such notice. Based on the interview and information received by the agency pursuant to paragraph (2) of this subsection, the agency head or his or her designee shall determine if an alternative position is available for the member which meets the following requirements:

(A) The physical requirements for such position are compatible with the member's physical limitations;

(B) The annual compensation and possibility for future advancement for such position shall be the same as or greater than that of the current position of the member;

(C) The duties for such position shall be reasonably compatible with the experience and educational qualifications of the member;

(D) The position shall be one which includes the holder thereof as a member of the retirement system provided for by this chapter; and

(E) The position must be available for acceptance by the member and an offer of the position to the official or member must be made, in writing, by not later than 45 days after the member submitted his or her application for a disability retirement.

An agency making an offer of alternative employment as provided in this paragraph shall so notify the board of trustees within 45 days after the member submitted his or her application for a disability retirement. After receipt of such notice, the board of trustees shall not approve a disability retirement until the procedures of paragraph (4) of this subsection are resolved.

(4) Any member applying for a disability retirement who is offered a position of employment in conformity with the requirements of paragraph (3) of this subsection shall accept the offer or dispute his or her ability to perform the tasks required by the position offered by submitting a written appeal to the agency and to the board of trustees within 30 days after receiving the offer. In the event of an appeal, the agency shall promptly submit to the medical board a detailed description of the requirements of the position offered and the



medical board shall determine, based upon all information available to it, whether the member is reasonably capable of performing such tasks. The decision of the medical board shall be final. If the medical board determines that the member is unable to perform the tasks required either by the position held at the time of the application for a disability retirement or the position offered, the member shall be placed on disability retirement immediately.

(5) A member who refuses to accept a position offered or file an appeal in a timely manner or who refuses to accept a position which the medical board has determined on appeal that he or she is capable of performing shall not be eligible to receive a disability retirement under this subsection.

(c)(1) The provisions of this paragraph shall apply only to persons who are members of the retirement system on June 30, 2007. Any member who is at least 60 years of age upon disability retirement, involuntary separation from employment without prejudice, or death shall receive the equivalent of a service retirement allowance. Any such member who is under 60 years of age shall receive, as appropriate, a disability allowance, allowance in case of involuntary separation from employment without prejudice, or death allowance, which shall consist of:

(A) In the case of a member with at least 15 years of service, 75 percent of the service retirement allowance which would have been payable upon service retirement at age 60 had the member continued in service to age 60 without further change in compensation, provided that this subparagraph shall not apply to a member whose employment was terminated by involuntary separation without prejudice;

(B) In the case of a member with at least 20 years of service, the service retirement allowance which would have been payable upon service retirement at age 60 had the member continued in service to age 60 without further change in compensation;

(C) In the case of a member with at least 25 years of service, 75 percent of the service retirement allowance which would have been payable upon service retirement at age 65 had he or she continued in service without further change in compensation; or

(D) In the case of a member with at least 30 years of service, the service retirement allowance which would have been payable upon service retirement at age 65 had he or she continued in service without further change in compensation.

Any provisions of this chapter to the contrary notwithstanding, in the application of subparagraphs (A), (B), (C), and (D) of this paragraph



relating to allowances other than for disability or death, projected retirement allowance computations shall be made on the basis of the member's highest total monthly earnable compensation, as reflected by monthly contributions made during the last 24 calendar months in which he or she had made contributions, except that no salary increase by adjustment in compensation in any manner in excess of 10 percent during the last 12 months of membership service shall be included in the projected computation.

(2) The provisions of this paragraph shall apply only to persons who first or again become members of the retirement system on or after July 1, 2007. Any member who has at least 15 years of creditable service and who becomes disabled before becoming eligible for a service retirement as provided in subsection (a) of Code Section 47-2-110 shall be eligible to retire forthwith without regard to age and to receive a disability retirement allowance calculated upon the number of years of creditable service attained to the date of retirement and based upon his or her highest average monthly compensation during a period of 24 consecutive calendar months while a member of the retirement system. No member who is eligible for an equivalent service retirement shall be eligible to apply for a disability retirement allowance.

(3) In lieu of a death benefit as provided in paragraph (1) of this subsection, a member who first or again becomes a member of the retirement system on or after July 1, 2007, and who has at least ten years of creditable service and is at least 60 years of age or who is less than 60 years of age and has at least 15 years of creditable service shall upon death receive the equivalent of a service retirement allowance calculated upon the number of years of creditable service attained on the date of death and based upon his or her highest average monthly compensation during a period of 24 consecutive calendar months while a member of the retirement system.

(d) In the application of subsection (c) of this Code section to death allowances, computations of projected retirement allowances shall be made on the same basis as though option two had been in effect. In lieu of the amount of death allowance otherwise payable to the beneficiary under option two, the member, upon written request, may at any time elect a reduced level death allowance of equivalent actuarial value, which allowance is payable to the beneficiary during a period of years certain or to the estate of the beneficiary and during the lifetime of such named beneficiary thereafter. At the election of the member, in case of death of the beneficiary during a term of years certain, the balance of the years certain payments may be paid to the estate of the member; but if such beneficiary predeceases the member, the total amount of the member's contributions to the date of his or her death shall be payable



to the member's estate. The method of determining the equivalent actuarial value shall be consistent with the actuarial method of determining the beneficiary's death allowance under option two.

(e) Anything in this chapter to the contrary notwithstanding, on and after March 6, 1963, a member who has not accumulated sufficient creditable service to qualify himself or herself for an allowance in case of involuntary separation from employment without prejudice shall not be deemed eligible for such allowances until he or she has accumulated sufficient membership service in a position classified under a merit system provided for by law or in a position covered under the retirement system. This subsection shall not affect the vesting of rights under Code Section 47-2-122. This subsection shall not be retroactive in any manner and shall not apply in any way to any person who was a member on or before February 13, 1962.

(f) The age and service requirements for a service retirement allowance shall not apply to allowances available under this Code section.

(g) From and after January 1, 1985, no employing unit within the government of the State of Georgia, including every department, commission, board, bureau, agency, branch of government, or any other employing unit by whatever name called, which has the authority and power to appoint, employ, release, separate, or fail to reappoint public officials or employees shall release or separate from state service, or fail to reappoint to continued state service, any public official or employee who is entitled to coverage under the involuntary separation retirement benefits provisions of this Code section. A release, separation, or failure to reappoint in violation of the provisions of this subsection shall be illegal, unlawful, and void. However, such releases or separations from state service or failures to reappoint to continued state service shall not be subject to the provisions of this subsection if such releases or separations from service or failures to reappoint occur under any of the following circumstances:

(1) Separation or release from service of an official or employee pursuant to Code Section 47-2-2 or separation or release from service of an official or the failure to reappoint an official by a board when such official serves at the pleasure of the board;

(2) Separation or release from service of an official or employee for any reason which would constitute cause as defined in the rules and regulations of the State Personnel Board if such separation or release from service is not pursuant to Code Section 47-2-2;

(3) Separation or release from service of an official or employee for criminal conduct under the laws of this state, any other state, or the United States; or

(4) A "discretionary termination" which means any one of the following:



(A) Separation or release from service of an official or employee under circumstances in which an official or employee is released or separated or any official's or employee's position or job is abolished through a valid reduction-in-force plan approved by the Department of Administrative Services;

(B) Separation or release from service of any official or employee by reason of a bona fide reorganization of any employing unit, with respect to which reorganization any such separations or releases have been approved in advance by the Governor; or

(C) Separation or release from service of an official or employee, or failure of reappointment of an official or employee, who holds a confidential position to an appointed or elected public official, or a group of appointed or elected public officials, incurred as a result of a change of administration in the office of such appointed or elected public official, or group of appointed or elected public officials.

(h)(1) Except where termination is required by a sudden and unexpected loss of federal or state funds, an employer intending the discretionary termination of an official or employee shall notify the commissioner of administrative services at least 60 but not more than 120 days prior to the effective date of the discretionary termination of such official or employee. If termination is required by a sudden and unexpected loss of federal or state funds, the employer shall notify the commissioner of administrative services as soon as the employer becomes aware of the loss of funds and the termination shall be delayed until the completion of the procedures required by this subsection. Pending the completion of such procedures, the employee or official proposed for termination because of a sudden and unexpected loss of federal or state funds shall be compensated from any funds appropriated or available to the employer which may be used for such purpose. The notice shall be in writing and a copy thereof shall be forwarded to the board of trustees at the same time it is forwarded to the commissioner of administrative services. The notice shall include the following information:

(A) The name and current annual compensation of the official or employee proposed for discretionary termination;

(B) The age, length of service, current job description, and summary of the work experience of the official or employee proposed for discretionary termination;

(C) The educational qualifications of the official or employee proposed for discretionary termination; and

(D) An explanation of the reasons for the proposed discretionary termination of the official or employee.



(2) After receipt of the notice provided for in paragraph (1) of this subsection, the commissioner of administrative services shall schedule an interview with the official or employee proposed for discretionary termination. The interview shall be held within 15 days after receipt of the notice. Based on the interview with the official or employee proposed for discretionary termination and the information provided by the notice received by the commissioner pursuant to paragraph (1) of this subsection, the commissioner shall contact appropriate state departments, boards, bureaus, and other agencies of the state government for the purpose of seeking continued employment for the official or employee proposed for discretionary termination. Any position for continued employment of the official or employee proposed for discretionary termination which is obtained by the commissioner shall meet the following requirements:

(A) The annual compensation for such position shall be the same or greater than the current annual compensation of the official or employee proposed for discretionary termination;

(B) The duties for such position shall be reasonably compatible with the previous work experience and educational qualifications of the official or employee proposed for discretionary termination;

(C) The position shall be one which includes the holder thereof as a member of the retirement system provided for by this chapter; and

(D) The position must be available for acceptance by the official or employee proposed for discretionary termination at least one day prior to the effective date of such termination and an offer of the position to the official or employee must be made, in writing, by not later than the day immediately preceding the effective date of the discretionary termination.

(3) Any official or employee proposed for discretionary termination who is offered a position of continued employment in conformity with the requirements of paragraph (2) of this subsection shall be deemed to have resigned from service at his or her own choice upon the failure of such official or employee to accept the position of continued employment, and no such official or employee so resigning from service shall qualify for retirement benefits based upon involuntary separation from employment without prejudice as authorized by this Code section.

(4) If the commissioner of administrative services fails to obtain a position of continued employment in conformity with the requirements of paragraph (2) of this subsection for an official or employee proposed for discretionary termination, then, on the effective date of the discretionary termination, the official or employee may be con-



sidered involuntarily separated from employment without prejudice for the purposes of this Code section.

(5) The commissioner of administrative services shall notify the board of trustees in writing of the action taken by the commissioner pursuant to this subsection and of any position of continued employment which is offered to and accepted or refused by an official or employee proposed for discretionary termination.

(6) It is the intention of this subsection to provide procedures to secure the continued employment of officials and employees who may become subject to discretionary termination, and the provisions of this subsection shall not be construed to create any right to continue in a position of employment when that right does not exist independently of this subsection. (Ga. L. 1949, p. 138, § 5; Ga. L. 1951, p. 394, § 6; Ga. L. 1952, p. 175, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 349, § 5; Ga. L. 1957, p. 283, §§ 5, 6; Ga. L. 1959, p. 107, § 4; Ga. L. 1962, p. 54, § 5; Ga. L. 1962, p. 152, § 1; Ga. L. 1963, p. 42, § 1; Ga. L. 1968, p. 1361, § 1; Ga. L. 1970, p. 26, § 2; Ga. L. 1971, p. 685, § 1; Ga. L. 1972, p. 360, § 3; Ga. L. 1984, p. 1296, § 3; Ga. L. 1985, p. 209, § 1; Ga. L. 1995, p. 333, § 1; Ga. L. 2006, p. 223, § 1/HB 379; Ga. L. 2007, p. 73, § 1/SB 162; Ga. L. 2009, p. 322, § 2/HB 476; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2010, p. 1207, § 64/SB 436; Ga. L. 2012, p. 413, § 7/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted “commissioner of administrative services” for “commissioner of personnel administration” throughout this Code section; inserted “or she” in subsection (a) and in the first sentence of subsection (e); inserted “or her” in the third sentence of subsection (d); inserted “or herself” in the first sentence of subsection (e); substituted “Department of Administrative Services” for “State Personnel Administration” in subparagraph (g)(4)(A); and deleted “of personnel administration” following “commissioner” in the third and fourth sentences of paragraph (h)(2).

**Editor’s notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: “The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel

Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.



## ARTICLE 8

PROVISIONS APPLICABLE TO PARTICULAR GROUPS OF  
EMPLOYEES

## PART 3

## TEACHERS AND MEMBERS OF THE TEACHERS RETIREMENT SYSTEM OF GEORGIA

**47-2-181. Transfer of service credits and accumulated contributions from the Teachers Retirement System of Georgia to this retirement system; transfer of funds.**

(a) Any other provisions of law to the contrary notwithstanding, any member, except a member subject to subsection (b) of this Code section, who was previously a member of the Teachers Retirement System of Georgia who has service credits with said teachers retirement system may have such service credits and accumulated contributions under said teachers retirement system transferred to the Employees' Retirement System of Georgia, provided that such transferred service credits shall not be used in determining the qualifications of a member for benefits other than vested rights or disability, death, or normal service retirement allowances. The Teachers Retirement System of Georgia shall pay an employer contribution together with regular interest thereon to the Employees' Retirement System of Georgia for each member establishing creditable service under this subsection. The amount of such employer contributions shall be 6 percent of the reported compensation of the member establishing creditable service during membership in the Teachers Retirement System of Georgia. Any member who elects to transfer such service credits shall so notify the board of trustees in writing.

(b) Pursuant to Code Section 47-3-81, any employee of an agency under the retirement system may transfer his or her service credit to the credit of his or her membership in the Teachers Retirement System of Georgia in the event that he or she enters service as a teacher, as defined in Code Section 47-3-1.

(c)(1) Any provision of this title to the contrary notwithstanding, any vested member of the Teachers Retirement System who becomes an employee of an employer may, at his or her option, elect to remain a member of the Teachers Retirement System of Georgia.

(2) If a person subject to this subsection elects to remain a member of the Teachers Retirement System of Georgia, the employer and employee shall make all contributions to such retirement system and perform such other acts as are required by law or regulation.

(3) If a person subject to this subsection does not elect to remain a member of the Teachers Retirement System of Georgia, he or she



shall become a member of this retirement system subject to all provisions of this chapter.

(4) This subsection shall be applicable to each person who was a member of this retirement system on January 1, 1997, and to all persons who become a member on or after such date. Any person subject to this subsection who became a member of the Teachers Retirement System of Georgia between January 1, 1997, and June 30, 1998, who elects to remain a member of this retirement system shall be governed by the provisions of subsection (a) of this Code section relating to the transfer of service credits and accumulated contributions. Any person eligible to make the election provided for in this subsection shall do so in writing to the board of trustees not later than September 30, 2000, or within 60 days after the person became an employee of an employer, whichever date is later. Once made, the election is irrevocable.

(5) The provisions of this subsection shall not become a part of the employment contract and shall be subject to subsequent legislation; provided, however, that no person who has made the election provided by this subsection shall be affected by any subsequent legislation.

(d)(1) At the time the membership of a person is transferred from the Teachers Retirement System of Georgia to this retirement system subject to Article 10 of this chapter, this retirement system shall receive the funds transferred from the Teachers Retirement System of Georgia pursuant to Code Section 47-3-81 and, as applicable, add the accrued benefit transferred from the Teachers Retirement System of Georgia to the accrued benefit or the balance of employee contributions and interest. The total benefits of any such member shall be subject to the rules of this retirement system.

(2) At the time the membership of a person subject to Article 10 of this chapter transfers to the Teachers Retirement System of Georgia, this retirement system shall:

(A) Calculate the accumulated benefit using the service and compensation at the time of the transfer;

(B) Calculate the present value of the accrued benefit using methods and assumptions adopted by the board of trustees; and

(C) Transfer to the Teachers Retirement System of Georgia the greater of the present value of the accumulated benefit or the balance of the employee contributions and interest.

(3) All service transferred pursuant to this subsection shall be calculated as credit in this retirement system for all purposes in this retirement system.



(4) This retirement system and the Teachers Retirement System of Georgia shall recalculate the accumulated benefit of any person transferred between such retirement systems from January 1, 2009, through June 30, 2012, according to the methods prescribed by this subsection. (Ga. L. 1962, p. 54, § 8; Ga. L. 1968, p. 1407, § 2; Ga. L. 1973, p. 900, § 10; Ga. L. 1982, p. 3, § 47; Ga. L. 1992, p. 1110, § 2; Ga. L. 1998, p. 775, § 1; Ga. L. 2000, p. 1273, § 1; Ga. L. 2012, p. 1051, § 1/SB 286.)

**The 2012 amendment**, effective July 1, 2012, added subsection (d).

## PART 9

### JUDGES AND OTHER COURT EMPLOYEES; CERTAIN COUNTY EMPLOYEES

#### **47-2-292. Merit system of personnel administration for county revenue employees; membership in retirement system; contributions; credit for prior service.**

(a) The offices of the tax commissioners, tax collectors, and tax receivers of the counties of this state are declared to be adjuncts of the Department of Revenue, such offices assisting in the returning and collecting of state taxes. All tax commissioners, tax collectors, and tax receivers and employees in their offices shall be subject to a merit system of personnel administration, as promulgated by each such office, under which all such officials and employees shall perform services on the basis of merit, fitness, and efficiency.

(a.1) Notwithstanding any other provision of this Code section, no person who first or again takes office or becomes employed on or after July 1, 2012, shall become a member of the retirement system pursuant to the provisions of this Code section. Any person serving in any such position on July 1, 2012, who continues in service without a break in service shall remain a member of this retirement system. The reelection of any such officer or the election of any eligible employee to such office shall not constitute a break in service.

(b) The official in charge of such office, if he or she is responsible for the payment of the employees in that office, or the governing authority of the county, if the official and the employees are paid by it, shall deduct or collect from each member the employee contributions required by this chapter and shall remit the same to the retirement system as required by regulations. The state revenue commissioner is authorized and directed to pay from the funds appropriated for the operation of the Department of Revenue, the employer contributions required by this chapter, upon receipt of an invoice from the retirement system.



(c) In addition to the regular employer contributions required by this chapter, the state revenue commissioner is authorized and directed to pay from the funds appropriated for the operation of the Department of Revenue an additional contribution, as determined by the board of trustees, in a regular monthly amount sufficient to amortize, within a period of not more than 20 years, the prior service values of such members.

(d) Except for those persons holding office on June 30, 1983, and except as otherwise provided by subsection (f) of this Code section, any person who becomes a tax commissioner, tax collector, or tax receiver at any time after June 30, 1983, shall be a member of the retirement system under the provisions of Code Section 47-2-334 as a condition of holding office. Any person holding office as a tax commissioner, tax collector, or tax receiver on June 30, 1983, except such officials who are then members of the retirement system and except as otherwise provided by subsection (f) of this Code section, shall have the option of becoming a member of the retirement system, and such option must be exercised by not later than June 30, 1984. Such officials electing membership in the retirement system may obtain creditable service under the retirement system for actual previous service as tax commissioner, tax collector, or tax receiver or as an employee of any such official by paying to the board of trustees the regular employer and employee contributions for each year or portion thereof claimed as previous service, with the computation of such contributions being based on the compensation of the official at the time of becoming a member of the retirement system. In addition to such employer and employee contributions, the official claiming such previous service shall pay interest at the rate of 6 percent per annum on the amount of such contributions compounded annually from the time the previous service was rendered until payment is made to the board of trustees. The payment required for such previous service shall be made to the board of trustees at the time application is made for membership in the retirement system. Except for the right to obtain creditable service for previous service as provided in this subsection, any official holding office on June 30, 1983, who elects membership in the retirement system shall be under the provisions of Code Section 47-2-334.

(e) Except for those persons in employment on June 30, 1983, and except as otherwise provided by subsection (f) of this Code section, any person who becomes an employee of a tax commissioner, tax collector, or tax receiver at any time after June 30, 1983, shall have the option, which must be exercised within 180 days after the date of employment, of becoming a member of the retirement system under the provisions of Code Section 47-2-334. Any person employed by a tax commissioner, tax collector, or tax receiver on June 30, 1983, except such employees who are then members of the retirement system and except as otherwise



provided by subsection (f) of this Code section, shall have the option of becoming a member of the retirement system, and such option must be exercised by not later than June 30, 1984. Such employees electing membership in the retirement system may obtain creditable service under the retirement system for actual previous service as an employee of a tax commissioner, tax collector, or tax receiver by paying to the board of trustees the regular employer and employee contributions for each year or portion thereof claimed as previous service, with the computation of such contributions being based on the compensation of the employee at the time of becoming a member of the retirement system. In addition to such employer and employee contributions, the employee claiming such previous service shall pay interest at the rate of 6 percent per annum on the amount of such contributions compounded annually from the time the previous service was rendered until payment is made to the board of trustees. The payment required for such previous service shall be made to the board of trustees at the time application is made for membership in the retirement system. Except for the right to obtain creditable service for previous service as provided in this subsection, any person employed on June 30, 1983, who elects membership in the retirement system shall be under the provisions of Code Section 47-2-334.

(f) Notwithstanding any other provisions of this Code section, no tax commissioner, tax collector, tax receiver, or any employee of any such official shall be eligible for membership in the retirement system if such official or employee is covered or becomes covered by any other public retirement or pension system, excluding social security coverage and coverage under any county or other local retirement or pension system. The provisions of subsections (a), (b), and (c) of this Code section shall apply to any tax officials or their employees who become members of the retirement system pursuant to subsections (d) and (e) of this Code section. (Ga. L. 1958, p. 637, § 1; Ga. L. 1963, p. 41, § 1; Ga. L. 1969, p. 1013, § 1; Ga. L. 1973, p. 880, § 1; Ga. L. 1983, p. 655, § 1; Ga. L. 1990, p. 527, § 1; Ga. L. 2010, p. 1207, § 32/SB 436; Ga. L. 2012, p. 1051, § 2/SB 286.)

**The 2012 amendment**, effective July 1, 2012, added subsection (a.1).



**47-2-292.1. Tax commissioners, tax collectors, and tax receivers and all employees in their offices employed on or after July 1, 2012, ineligible for membership in the Employees' Retirement System of Georgia by operation of law.**

(a) The provisions of this Code section shall apply to tax commissioners, tax collectors, and tax receivers and employees in their offices who first or again take office or become employed on or after July 1, 2012.

(b) On and after July 1, 2012, the governing authority of each county shall have the option of including the county tax commissioner, tax collector, or tax receiver and all employees of such person's office as members of the retirement system. Such option shall be made by adopting a resolution and forwarding such resolution to the board of trustees.

(c) The official in charge of such office, if he or she is responsible for the payment of the employees in that office, or the governing authority of the county, if the official and the employees are paid by it, shall deduct or collect from each member the employee contributions required by this chapter and shall remit the same to the retirement system as required by regulations. The governing authority of the county shall pay to the board of trustees the employer contributions required by this chapter, upon receipt of an invoice from the retirement system.

(d) An election by a county governing authority made pursuant to subsection (b) of this Code section may be revoked in the same manner as the election was made, but the county's obligations as to any officer or employee who became a member of the retirement system as a result of such election shall continue, and the rights and benefits of any such officer or employee shall be unaffected by such revocation.

(e) All persons subject to the provisions of this Code section shall be members of the retirement system under the provisions of Article 10 of this chapter as a condition of holding office.

(f) Notwithstanding any other provisions of this Code section, no tax commissioner, tax collector, tax receiver, or any employee of any such official shall be eligible for membership in the retirement system if such officer or employee is covered or becomes covered by any other public retirement or pension system, excluding social security coverage. (Code 1981, § 47-2-292.1, enacted by Ga. L. 2012, p. 1051, § 3/SB 286.)

**Effective date.** — This Code section became effective July 1, 2012.



**47-2-295.1. Probation and intake officers of Department of Juvenile Justice.**

(a) As used in this Code section, the term:

(1) "Department" means the Department of Juvenile Justice.

(2) "Local retirement system" means a retirement or pension system maintained by a county which includes as members thereof county probation and intake officers who become employees of the department as a result of the county probation and intake services being transferred to the department pursuant to the provisions of Code Section 15-11-69. The term includes any such retirement or pension system created by law or created by ordinance or resolution of the county under the home rule provisions of the Constitution.

(3) "Probation and intake officer" means a probation and intake officer as such term is defined in Code Section 15-11-2.

(b) Any probation and intake officer becoming an employee of the department at any time on or after July 1, 1993, as a result of a transfer of county probation and intake services to the department pursuant to the provisions of Code Section 15-11-69 shall have the options and rights provided for by this Code section. The options available to any such employee under this Code section must be exercised within 18 months after the date the applicable county probation and intake services are transferred to the department. Any such option shall be exercised by such employee notifying, in writing, the Board of Trustees of the Employees' Retirement System of Georgia, the governing authority of the applicable county, and, when applicable, the board of trustees or other managing body of any local retirement system of which the employee is a member. If the employee is a member of a local retirement system, such membership shall continue pending the exercise of an option provided by this Code section. The choice made by an employee in selecting an option provided by this Code section shall be irrevocable and may not at any time thereafter be rescinded or modified.

(c) If an employee subject to this Code section was a member of a local retirement system at the time the applicable county probation and intake services were transferred to the department, such employee may either continue active membership in the local retirement system as provided in this subsection or become a member of the Employees' Retirement System of Georgia and transfer creditable service as an employee of the local retirement system to the Employees' Retirement System of Georgia as provided in subsection (d) of this Code section. An employee electing to continue membership in a local retirement system shall have the right to continue such membership and the salary received by such employee as an employee of the department shall be



the salary of such employee for all purposes under the local retirement system. Except as otherwise provided in this subsection for the use of certain employer contributions to offset required employee contributions, such employee shall continue to pay the employee contributions required under the local retirement system; and, for such purposes, the department may enter into an agreement with the board of trustees or other managing body of the local retirement system whereby the department may deduct such employee contributions from the compensation of the employee and pay the amount deducted to the local retirement system. Employer contributions for continued membership in the local retirement system shall be computed at the same percentage rate applicable to all other state employees on the basis of the state salary paid to such employees electing to continue membership in the local retirement system and shall be paid by the department when applicable to the local retirement system; provided, however, that, if the employer contributions paid by the department exceed the employer contributions applicable to all other employees of the local retirement system, the difference between the percentage rate of employer contributions paid by the department and the percentage rate of employer contributions applicable to all other employees of the local retirement system shall be applied to offset the percentage rate of employee contributions required of such state employees remaining in the local retirement system; provided, further, that, if the employer contributions to be paid by the department under this subsection would exceed the total employee and employer contributions required under the local retirement system, the department shall only be required to pay the total amount of such employee and employer contributions required under the local retirement system. An employee continuing membership under a local retirement system under this subsection shall retain all rights, benefits, and privileges under the local retirement system in the same manner and to the same extent as if the employee remained an employee of the county; provided, however, that such employee shall not be entitled to health and life insurance benefits available to county employees. An employee electing to continue membership in a local retirement system shall not be and may not become a member of the Employees' Retirement System of Georgia.

(d) An employee who was a member of a local retirement system as provided in subsection (c) of this Code section may elect to become a member of the Employees' Retirement System of Georgia. Any such employee so electing shall receive creditable service under the Employees' Retirement System of Georgia for all accredited service previously rendered as an employee of the applicable local retirement system. For each employee so electing, the governing authority of the applicable county or the board of trustees or other managing body of the applicable local retirement system, within 30 days after receiving the notice



provided for in subsection (b) of this Code section, shall pay to the Board of Trustees of the Employees' Retirement System of Georgia the total employee and employer contributions plus interest made by or on behalf of the employee to the local retirement system, together with accumulated interest thereon; provided, however, that the amount so transferred shall not exceed the amount necessary to grant the creditable service under the Employees' Retirement System of Georgia authorized by this subsection without creating any unfunded accrued liability, as a result of granting such creditable service, against the Employees' Retirement System of Georgia.

(e) If an employee subject to this Code section was not a member of a local retirement system at the time the applicable county juvenile detention system became a part of the state-wide juvenile detention system, such employee shall become a member of the Employees' Retirement System of Georgia effective on the date the county probation and intake services are transferred to the department. Any such member may purchase as creditable service under the Employees' Retirement System of Georgia all or any portion of previous actual service rendered by the member as an employee of the applicable county probation and intake system, except in those instances in which such member has retired or is receiving benefits from a local retirement system. Such creditable service may be purchased by the member's paying to the board of trustees all employee and employer contributions which would have been made if the employee had been a member of this retirement system, plus regular interest thereon. The time limitation for exercising options provided for in subsection (b) of this Code section shall not apply to the purchase of creditable service under this subsection. Any eligible member may purchase such creditable service at any time during the first five years of membership in the Employees' Retirement System of Georgia. No service for which credit is granted pursuant to this subsection shall be used for credit in any local retirement system.

(f) To the extent this Code section conflicts with or is inconsistent with the provisions of a local retirement or pension system affected by this Code section, whether such local retirement or pension system was created by law or by local ordinance, the provisions of this Code section shall control. (Code 1981, § 47-2-295.1, enacted by Ga. L. 1994, p. 710, § 1; Ga. L. 1997, p. 1453, § 1; Ga. L. 2000, p. 20, § 24; Ga. L. 2014, p. 393, § 1/SB 339.)

**The 2014 amendment**, effective April 21, 2014, part of an Act to revise, modernize, and correct this title, in paragraph (a)(2), substituted "officers" for "employees" near the middle, substituted "services" for "servives", substituted "Code

Section 15-11-69. The term" for "Code Section 15-11-24.3, and the term" in the middle, and deleted "of Georgia" at the end; substituted the present provisions of paragraph (a)(3) for the former provisions, which read: "Probation and intake em-



employee' means a probation and intake employee as such term is defined in paragraph (1) of subsection (a) of Code Section 15-11-24.3."; and, in subsection (b), in the

first sentence, substituted "probation and intake officer" for "person" and substituted "Code Section 15-11-69" for "Code Section 15-11-24.3".

## PART 10

### EMPLOYEES OF CERTAIN STATE AUTHORITIES AND COMMISSIONS

#### **47-2-316. Membership in the retirement system of officers or employees of Georgia Agricultural Exposition Authority.**

(a) As used in this Code section, the term "Georgia Agricultural Exposition Authority" or "authority" means the Georgia Agricultural Exposition Authority established by Chapter 3 of Title 2, known as the "Georgia Agricultural Exposition Authority Act."

(b) Effective on July 1, 1988, or on first becoming officers or employees of the Georgia Agricultural Exposition Authority, all such officers and employees shall become members of the retirement system. Any officer or employee of the authority who was already a member of the retirement system on July 1, 1988, and any member of the retirement system who, without any break in service, becomes an officer or employee of the authority on or after July 1, 1988, shall continue in the same membership status without any interruption in membership service and without the loss of any creditable service. Except as otherwise provided in this subsection, any person becoming a member of the retirement system pursuant to the provisions of this Code section shall be subject to the provisions of Code Section 47-2-334.

(c) All employer contributions, including employee contributions made by the employer on behalf of members, which are required by this chapter shall be made for members who are subject to the provisions of this Code section from funds appropriated or otherwise available for the operation of the Georgia Agricultural Exposition Authority. The authority shall deduct from the salaries payable to such members the additional employee contributions required by this chapter. (Code 1981, § 47-2-316, enacted by Ga. L. 1988, p. 201, § 1; Ga. L. 2012, p. 794, § 1/HB 944.)

**The 2012 amendment**, effective May 1, 2012, substituted "established by Chapter 3 of Title 2" for "established by Part 8

of Article 7 of Chapter 3 of Title 12" in subsection (a).



**47-2-317. Membership in the retirement system of officers and employees of the Georgia Agrirama Development Authority.**

Reserved. Repealed by Ga. L. 2011, p. 504, § 1(1)/HB 144, effective May 11, 2011.

**Editor's notes.** — This Code section was based on Code 1981, § 47-2-317, enacted by Ga. L. 1988, p. 264, § 1; Ga. L. 1994, p. 332, § 1; Ga. L. 2002, p. 440, § 1. For present comparable provisions on retirement provisions for employees transferred to the Board of Regents, see Code Sections 47-2-181 and 47-3-181.

**47-2-323. Membership in retirement system of employees of Georgia Public Defender Council; creditable service; contributions.**

(a) As used in this Code section, the term:

(1) "Council" means the Georgia Public Defender Council established by Code Section 17-12-3.

(2) "Employee" means any full-time employee of the council.

(3) "Proof of prior employment" means pay records, income tax withholding records, or other records of the council which are sufficient to establish to the satisfaction of the board of trustees the prior employment record of an employee of the council.

(b) Effective July 1, 1994, or on the date of employment, each employee of the council shall become a member of the retirement system.

(c)(1) This subsection shall apply only to an employee of the council employed by the council prior to July 1, 1994.

(2) An employee of the council who is subject to the provisions of this subsection shall, upon furnishing proof of prior employment to the board of trustees, be eligible to receive creditable service under this retirement system for prior employment as an employee of the council, subject to the requirements of this subsection. Any such employee must pay to the board of trustees the employee contributions which would have been paid during the period of prior employment if the employee had been a member of the retirement system during such period. The council shall pay from any funds available to the council the employer contributions which would have been paid during such period of prior employment. For a member claiming creditable service for prior employment under this subsection, the board of trustees shall determine the period of time that the payments to the board of trustees provided for under this subsection will fund as creditable service under the retirement system without



creating any additional accrued liability of the retirement system. Except as otherwise provided in paragraph (3) of this subsection, the amount of creditable service so determined shall be the creditable service to which the member is entitled.

(3) The council shall be authorized to supplement, if necessary, the payments made to the board of trustees under paragraph (2) of this subsection in an amount, as determined by the board of trustees, which will fully fund as creditable service the total amount of prior employment of the employee without creating any additional accrued liability of the retirement system. If such supplement is paid to the board of trustees by the council, the employee shall receive full creditable service under the retirement system for all prior employment as an employee of the council.

(d) Any employee of the council who was already a member of the retirement system on July 1, 1994, and any member of the retirement system who, without any break in service, becomes an employee of the council on or after July 1, 1994, shall continue in the same membership status without any interruption in membership service and without the loss of any creditable service.

(e) Except as otherwise provided in subsection (d) of this Code section, an employee of the council becoming a member of the retirement system pursuant to the provisions of this Code section shall be subject to the provisions of Code Section 47-2-334.

(f) All employer contributions, including employee contributions made by the employer on behalf of members, which are required by this chapter shall be made for members who are subject to the provisions of this Code section from funds appropriated to or otherwise available for the operation of the council. The council shall deduct from the salaries payable to such members the additional employee contributions required by this chapter. (Code 1981, § 47-2-323, enacted by Ga. L. 1994, p. 718, § 1; Ga. L. 2004, p. 596, § 1; Ga. L. 2015, p. 898, § 2/HB 266.)

**The 2015 amendment**, effective July 1, 2015, substituted “Georgia Public Defender Council” for “Georgia Public Defender Standards Council” in paragraph (a)(1).



## ARTICLE 9

## MISCELLANEOUS PROVISIONS

**47-2-332. Exemption of rights and benefits from taxes, legal process, and assignment of retirement system property as public property; exemptions for retirement system property.**

## JUDICIAL DECISIONS

**Annuity.** — O.C.G.A. § 44-13-100 specifically addresses what types of annuities and similar contracts are exempt in bankruptcy cases. Therefore, the debtor's attempt to exempt the annuity under O.C.G.A. §§ 18-4-22 and 47-2-332 would

have failed even if the annuity met the requirements of those statutes (which appeared not to be the case in any event). In *re Sheffield*, 507 B.R. 400 (Bankr. S.D. Ga. 2014).

## ARTICLE 10

## GEORGIA STATE EMPLOYEES' PENSION AND SAVINGS PLAN

**47-2-357. Withdrawal; employer contributions; vesting; date of election.**

(a) As used in this Code section, the term:

(1) "401(k)" means the deferred compensation plan offered by the state for public employees pursuant to Article 3 of Chapter 18 of Title 45 utilizing Section 401(k) of the federal Internal Revenue Code.

(2) "Plan" means the employee savings plan created by this article.

(b) Each member shall, at the time of becoming a member, be automatically enrolled in the plan; provided, however, that the member shall have a period of 90 days from the date of enrollment to withdraw from the plan. Such withdrawal shall be made in writing to the board of trustees in such form as the board prescribes and any employee account balance shall be returned to the member. Thereafter, participation in the plan shall be voluntary. The member may not withdraw from the plan so long as he or she remains eligible to participate in the 401(k) plan offered by the state.

(c)(1) This paragraph shall apply to persons who became members prior to July 1, 2014. Unless the participating member elects otherwise, the member shall, for each pay period, contribute 1 percent of his or her compensation into his or her 401(k) account. The member may change such level of participation at any time.

(2) This paragraph shall apply to persons who become members on or after July 1, 2014. Unless the participating member elects other-



wise, the member shall, for each pay period, contribute 5 percent of his or her compensation into his or her 401(k) account. The member may change such level of participation at any time.

(d) After the participating member has contributed an amount equal to 1 percent of his or her salary into the 401(k) plan for a pay period, the employer shall contribute an equal amount into his or her 401(k) account. Thereafter, the employer shall contribute an amount equal to 50 percent of such amount as the member chooses to contribute for each pay period, up to an additional 2 percent of the member’s compensation. The member may make such additional contributions as he or she desires, subject to limitations imposed by federal law.

(e) The board of trustees shall apportion the costs of administering the plan among the employers and members on the basis of the normal costs of administration against any special services requested by any member.

(f) All contributions by participating members are 100 percent vested and shall be maintained in an account and invested based on the participant’s investment allocation choices. All employer contributed amounts credited to a member’s account shall be maintained as a matching contribution subaccount and invested based on the participant’s investment allocation choices. Any and all amounts credited to a member’s matching contribution subaccount, including applicable earnings and investment appreciation or depreciation, shall become vested and nonforfeitable based on the number of employment service years completed and in accordance with the vesting schedule set forth below:

Years of Service	Employer Nonforfeitable Vested Percentage
1	20
2	40
3	60
4	80
5	100

Upon separation from service for greater than 31 days, the portion of such matching contribution subaccount not so vested shall be transferred from the member’s account into a temporary plan forfeiture accumulation account for future disposition as determined by the board of trustees. A break in service less than 32 days shall not affect vesting rights.

(g) Members electing to be governed by the provisions of this article pursuant to subsection (b) of Code Section 47-2-351 shall use their date



of election as the beginning date for purposes of calculating their vesting service for the employer contribution as provided in subsection (f) of this Code section used to calculate the vesting requirements of subsection (f) of this Code section, except that service as provided under Code Section 47-2-91 shall not constitute creditable service for this purpose. (Code 1981, § 47-2-357, enacted by Ga. L. 2008, p. 1005, § 1/SB 328; Ga. L. 2014, p. 841, § 1/HB 764.)

**The 2014 amendment**, effective July 1, 2014, in subsection (b), deleted “Members shall be entitled to an employer contribution as follows:” at the end of the introductory paragraph, and deleted former paragraphs (b)(1) through (b)(3); added subsections (c) and (d); redesignated former paragraph (b)(4) as present subsection (e); redesignated former subsections (c) and (d) as present subsections (f) and (g); and substituted “subsection (f)” for “subsection (c)” in two places in subsection (g).

CHAPTER 3

TEACHERS RETIREMENT SYSTEM OF GEORGIA

Article 1		Sec.	
General Provisions			
Sec.			
47-3-1.	Definitions.		from Employees’ Retirement System of Georgia; limitations; additional contributions or adjustments required.
Article 4			
Membership in the Retirement System		47-3-84.2.	Credit for service by members described in subparagraphs (N) and (P) of paragraph (28) of Code Section 47-3-1 [Repealed].
47-3-60.	Eligibility; termination; leaves of absence; service credit for postgraduate study; transfer of service credit.		
Article 5			
Service Creditable Toward Retirement Benefits			
47-3-81.	Transfer of service credits	47-3-127.1.	Employment of retired teacher as full-time teacher or in other capacities [Repealed].
Article 7			
Retirement Allowances, Disability Benefits, and Spouses’ Benefits			

OPINIONS OF THE ATTORNEY GENERAL

**Teachers employed by commission charter schools.** — Unless and until the General Assembly adopts clarifying legislation, it is within the sound discretion of the Teachers Retirement System Board of Trustees to determine whether teachers who are employed not less than half-time by commission charter schools must be members of the Teachers Retirement System. 2010 Op. Att’y Gen. No. 10-7.

**Eligibility of library employees.** — Regional and county library employees



paid solely with local funds are required to be members of the Teachers Retirement System. 2011 Op. Att’y Gen. No. 11-2.

## ARTICLE 1 GENERAL PROVISIONS

### 47-3-1. Definitions.

As used in this chapter, the term:

(1) “Accumulated contributions” means the sum of all the amounts deducted from the earnable compensation of a member or paid by the member to establish or reestablish credit for service, which amounts are credited to his or her individual account in the annuity savings fund, together with regular interest on such amounts, as provided in Code Section 47-3-41. Beginning July 1, 1987, “accumulated contributions” shall include the amount of employee contributions paid by employers on behalf of members and credited to the individual accounts of members in the annuity savings fund, together with regular interest thereon.

(2) “Actuarial equivalent” means a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees.

(3) “Annuity” means annual payments for life derived from the accumulated contributions of a member.

(4) “Annuity reserve” means the present value of all payments to be made on account of an annuity or benefit in lieu of an annuity, computed at regular interest upon the basis of the mortality tables adopted by the board of trustees.

(5) “Annuity savings fund” means the fund set forth under Code Section 47-3-41.

(6) “Average final compensation” means the average annual earnable compensation of a teacher during the two consecutive years of membership service producing the highest such average.

(7) “Beneficiary” means any person in receipt of a pension, an annuity, a retirement allowance, or other benefit under this chapter.

(8) “Board of trustees” means the board of trustees as provided for in Code Section 47-3-21 and whose purpose is to administer the retirement system.

(8.1) “Certified professional personnel” means employees of the State Board of Education or the Professional Standards Commission



who, by policy of the State Board of Education, are required to possess a valid professional certificate issued by the Professional Standards Commission.

(9) "Commencement date" means January 1, 1945.

(10) "Creditable service" means prior service plus membership service and any other service established under this chapter.

(11) "Earnable compensation" means the full rate of regular compensation payable to a member for his or her full normal working time and includes compensation paid to a member by an employer from grants or contracts made by outside agencies with the employer. All moneys paid by an employer for a member or by a member into any plan of tax sheltered annuity shall be included as earnable compensation for the purpose of computing any contributions required to be made to the retirement system and also for the purpose of computing any benefits or allowances payable under this chapter. Such term shall include contributions made to a qualified transportation plan, within the meaning of Section 132(f) of the federal Internal Revenue Code, and before tax or salary deferral contributions made under Sections 125, 401(k), 402(g)(3), 457, or 414(h) of the federal Internal Revenue Code to this retirement system or to any other retirement plan maintained by an employer.

(12) "Employer" means the State of Georgia, the county or independent board of education, the State Board of Education, the Board of Regents of the University System of Georgia, or any other agency of and within this state by which a teacher is paid. Notwithstanding any provisions in prior or future Acts to the contrary, the county and regional library boards of trustees shall be deemed to be the employer of the county or regional librarians, whose salaries are paid in full or in part from state funds.

(13) "Expense fund" means the fund set forth in Code Section 47-3-47.

(14) "Local retirement fund" means any teachers' retirement fund or other arrangement for the payment of retirement benefits to teachers, but not including the retirement system created under this chapter, which fund was maintained during the calendar year 1943 and is financed wholly or in part by contributions made by an employer.

(15) "Member" means any teacher included in the membership of the retirement system.

(16) "Membership service" means service as a teacher rendered while a member of the retirement system for which credit is allowable.



(17) "Pension" means periodic payments for life, derived from contributions of the state or other employer.

(18) "Pension accumulation fund" means the fund set forth under Code Section 47-3-43.

(19) "Pension reserve" means the present value of all payments to be made on account of a pension, or benefit in lieu of a pension, computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees.

(19.1) "Plan year" means the 12 month period beginning on July 1 of each year.

(20) "Prior service" means service rendered prior to January 1, 1945, for which credit is allowable under Code Sections 47-3-83 and 47-3-86.

(21) "Public school" means any day school which is conducted within this state and which is under the authority and supervision of a duly elected county or independent board of education.

(22) "Regular interest" means interest compounded annually at such a rate as shall be determined by the board of trustees in accordance with this chapter.

(23) "Retirement" means withdrawal from service with a retirement allowance granted under this chapter.

(24) "Retirement allowance" means the sum of the annuity and the pension, or any optional benefit payable in lieu thereof, under Code Section 47-3-121. All retirement allowances shall be payable in equal monthly installments, provided that the board of trustees may pay a lump sum of equivalent actuarial value in lieu of a retirement allowance of less than \$10.00 per month.

(25) "Retirement system" means the Teachers Retirement System of Georgia established under Code Section 47-3-20.

(25.1) "Salary" shall have the same meaning as earnable compensation.

(26) "Service" means service rendered as a teacher and paid for by this state or other employer.

(27) "Service credit" means creditable service, as defined in this Code section.

(28) "Teacher" means a permanent status employee employed not less than half time as follows:

(A) Employees of a public school or a local board of education with the exception of those employees required to be members of



the Public School Employees Retirement System as governed by Chapter 4 of this title;

(B) Public school lunchroom managers or supervisors, maintenance managers or supervisors, transportation managers or supervisors, and warehouse managers or supervisors who elect to participate in the retirement system pursuant to Code Section 47-3-63;

(C) Employees of the Board of Regents of the University System of Georgia with the exception of those employees who elect to participate in the Regents Retirement Plan as governed by Chapter 21 of this title and maintenance and custodial employees employed prior to July 1, 1978, who elected to forgo membership;

(D) Employees of any regional educational service agency created pursuant to Part 11 of Article 6 of Chapter 2 of Title 20;

(E) Certified professional personnel employed for the first time by the Department of Education on and after July 1, 1983, unless such personnel elect membership in the Employees' Retirement System of Georgia pursuant to subsection (h) of Code Section 47-3-60, and any employee of the Department of Education employed in a teaching, supervisory, or clerical capacity;

(F) Certified professional personnel employed by the Department of Education and who become members of this retirement system pursuant to the authority of subsection (i) of Code Section 47-3-60;

(G) Professional personnel employed for the first time by the Technical College System of Georgia on and after July 1, 1985, and all nonprofessional personnel employed for the first time after July 1, 1987, by postsecondary vocational-technical schools governed by the Technical College System of Georgia if otherwise eligible under laws, rules, and regulations, unless such personnel elect membership in the Employees' Retirement System of Georgia pursuant to subsection (j) of Code Section 47-3-60;

(H) Personnel employed by the Department of Education who are authorized to elect and elect to become or remain members of the retirement system pursuant to the applicable provisions of Code Section 47-3-60;

(I) Employees of any school operated by the Department of Education; and

(J) Librarians and clerical personnel employed by regional and county libraries. Any of such librarians and clerical personnel who were members of a local retirement system on January 1, 1977, and



who elected to remain members of such local retirement system shall not be required to become members of this retirement system, or if they were members of this retirement system on that date, they may withdraw from such membership. This election must have been made, in writing, to the board of trustees by not later than January 1, 1978. Any of such librarians and clerical personnel failing to so notify the board of trustees by that date shall be members of this retirement system.

The term “teacher” shall not be deemed to include any emergency or temporary employee. The term “teacher” shall not include an individual classified by an employer as an independent contractor or a leased employee within the meaning of Section 414(n) of the federal Internal Revenue Code, even if such individual is later reclassified by the Internal Revenue Service as a common law employee. The board of trustees shall determine in doubtful cases whether any person is included within the definition set forth in this paragraph. (Ga. L. 1943, p. 640, § 1; Ga. L. 1949, p. 1505, § 1; Ga. L. 1950, p. 261, §§ 1, 2; Ga. L. 1953, Nov.-Dec. Sess., p. 470, § 1; Ga. L. 1956, p. 13, § 1; Ga. L. 1957, p. 118, §§ 1, 2; Ga. L. 1959, p. 315, § 1; Ga. L. 1960, p. 935, § 1; Ga. L. 1962, p. 723, § 11; Ga. L. 1965, p. 438, § 1; Ga. L. 1965, p. 652, § 1; Ga. L. 1966, p. 513, § 1; Ga. L. 1969, p. 672, § 1; Ga. L. 1970, p. 217, § 1; Ga. L. 1971, p. 226, § 1; Ga. L. 1972, p. 176, § 1; Ga. L. 1972, p. 909, §§ 1, 2; Ga. L. 1974, p. 1179, § 1; Ga. L. 1976, p. 577, § 3; Ga. L. 1977, p. 1135, § 1; Ga. L. 1977, p. 1159, § 1; Ga. L. 1981, p. 1894, § 1; Ga. L. 1982, p. 684, § 3; Ga. L. 1982, p. 965, § 1; Ga. L. 1983, p. 3, § 36; Ga. L. 1983, p. 1859, §§ 2, 3; Ga. L. 1984, p. 1314, § 1; Ga. L. 1986, p. 1543, § 2; Ga. L. 1987, p. 575, § 8; Ga. L. 1987, p. 959, § 1; Ga. L. 1988, p. 379, § 1; Ga. L. 1988, p. 1351, § 2; Ga. L. 1988, p. 1742, § 2; Ga. L. 1990, p. 685, § 1; Ga. L. 1991, p. 1546, § 11; Ga. L. 1992, p. 2182, § 1; Ga. L. 1993, p. 86, § 1; Ga. L. 1993, p. 316, § 1; Ga. L. 2000, p. 131, § 1; Ga. L. 2005, p. 535, §§ 9, 10, 11/HB 460; Ga. L. 2008, p. 562, § 1/SB 434; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2010, p. 427, §§ 4, 5/HB 969; Ga. L. 2010, p. 1207, § 40/SB 436; Ga. L. 2012, p. 413, § 8/HB 805; Ga. L. 2013, p. 862, § 1/HB 345.)

**The 2012 amendment**, effective July 1, 2012, inserted “or her” in the first sentence of paragraphs (1) and (11); substituted “Technical College System of Georgia” for “State Board of Vocational Education” in subparagraph (28)(F); and substituted “as defined by Code Section 45-20-2” for “of the State Personnel Administration” in subparagraph (28)(F.1).

**The 2013 amendment**, effective July 1, 2013, rewrote paragraph (28).

**Editor’s notes.** — Ga. L. 2012, p. 413,

§ 1/HB 805, not codified by the General Assembly, provides that: “The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642,



which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the

transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

## JUDICIAL DECISIONS

**Cited** in *Silliman v. Cassell*, 292 Ga. 464, 738 S.E.2d 606 (2013).

## OPINIONS OF THE ATTORNEY GENERAL

### ANALYSIS

#### TEACHER

##### 2. LIBRARIANS

#### Teacher

##### 2. Librarians

**Eligibility of regional and county library employees.** — Paragraph (12) of O.C.G.A. § 47-3-1 merely provides that a certain entity, the local library board, will be deemed the “employer” for purposes of the Teachers Retirement System and will be responsible for administering the pay-

ment of contributions on behalf of member employees. The language in no way limits the membership in the Teachers Retirement System to only those regional and county library personnel who are paid in whole or in part by state funds. Thus, regional and county library employees paid solely with local funds are required to be members of the Teachers Retirement System. 2011 Op. Att’y Gen. No. 11-2.

## ARTICLE 4

### MEMBERSHIP IN THE RETIREMENT SYSTEM

#### **47-3-60. Eligibility; termination; leaves of absence; service credit for postgraduate study; transfer of service credit.**

(a) Any person who becomes a teacher after January 1, 1944, shall become a member of the retirement system as a condition of his or her employment, except as otherwise provided in this chapter.

(b) Any person who was a teacher on January 1, 1943, or became a teacher prior to January 1, 1944, shall be a member unless prior to January 1, 1944, he or she filed with the board of trustees, on a form provided by it, a notice of his or her election not to be included in the membership of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise accrue to him or her by participating in the retirement system. Such a teacher who



elected not to become a member may at any time thereafter apply for and be admitted to membership, but without credit for that service rendered after July 1, 1943, and before the time he or she becomes a member, and without prior service credit.

(c) Reserved.

(d) A teacher otherwise eligible shall be classified as a member only while he or she is in the service of an employer not operating a local retirement system.

(e) The membership of any member shall terminate upon the member's:

(1) Death;

(2) Retirement under this retirement system;

(3) Withdrawal of his or her contributions;

(4) Rendering less than one year of service in a period of five consecutive years as a member; or

(5) Employment by an employer which operates a local retirement fund, unless the member has ten or more years of creditable service with this retirement system, in which case the member may elect to continue membership in this retirement system, subject to the same terms and conditions as other members.

(e.1) A member who has not withdrawn the member's contributions to the retirement system and who has a break in service of more than four years but not more than five years may be reinstated to membership if the member pays a sum equal to 12 1/2 percent of the member's salary for the last year of service prior to the break in service. A member who has not withdrawn the member's contributions to the retirement system and who has a break in service of more than five years but not more than six years may be reinstated to membership if the member pays a sum equal to 25 percent of the member's salary for the last year of service prior to the break in service. A member who has not withdrawn the member's contributions to the retirement system may be reinstated to membership without paying the reinstatement fees after the member renders at least one year of membership service subsequent to the break in service. All interest credits shall cease after any such break in service but shall begin again on the date of payment of the sum required for reinstatement to membership or on the first day of July immediately following the completion of one year of membership service following the break in service. The board of trustees may approve the continued membership of a member while in the armed forces of the United States or other emergency wartime service of the United States, or a member whose membership would be terminated



because of illness which prevents the member from rendering the service otherwise required by this Code section. The board of trustees may also grant an additional year of leave to a teacher for each child born to or adopted by such teacher while on authorized leave.

(f)(1) In the event a member desires to pursue a program of full-time study which will require that he or she render less than one year of service in a period of five consecutive years and which would otherwise result in termination of his or her membership, the board of trustees may approve a leave of absence for study purposes in addition to the normal four-year break in service which the member could otherwise take, so that the combined break in service does not exceed six years. Such study leave shall be continuous. In no event shall such a member's account remain in an active status for longer than six consecutive years for such purpose.

(2) A member who undertakes full-time graduate study designed to advance or improve his or her training or abilities as a teacher is entitled to receive creditable service for a period of graduate study under the following conditions:

(A) The member must have been a full-time teacher in the public schools of this state or in the University System of Georgia under the board of regents immediately prior to the period of graduate study. Any such period of graduate study interrupted solely for a period of active duty military service begun during a period in which the military draft is in effect shall be deemed not to have been interrupted for purposes of this subparagraph;

(B) The member must submit a transcript or similar document to the retirement system as verification of the graduate study pursued;

(C) The member must return to full-time employment as a teacher in the public schools of this state or in the University System of Georgia under the board of regents for a minimum of five years following such period of graduate study;

(D) The member must pay the appropriate member contributions plus applicable accrued interest in accordance with regulations adopted by the board of trustees on the basis of the salary the member was receiving for full-time employment as a teacher immediately prior to the period of graduate study; and

(E) Either the member's present employer or the member must pay the appropriate employer contributions and applicable accrued interest thereon if the source of funds from which the member was paid immediately prior to his or her period of graduate study was other than state funds.



(3) The foregoing provisions of this subsection shall apply to periods of graduate study heretofore and hereafter granted, but nothing contained in this subsection shall be construed to rescind any creditable service granted prior to July 1, 1981, pursuant to this subsection or its predecessors.

(g) Any other provisions of law to the contrary notwithstanding, if a member with ten or more years' creditable service after becoming a member is employed by an employer operating a local retirement fund, his or her membership does not automatically terminate and he or she may elect to maintain his or her membership rather than participate in the local retirement fund, subject to the same terms and conditions as other members of the retirement system.

(h) New certified professional personnel employed for the first time by the State Board of Education or by the State Department of Education on and after July 1, 1983, shall become members of the retirement system as a condition of employment, unless such personnel elect membership in the Employees' Retirement System of Georgia at the time of their employment. Such election shall be made in writing to the board of trustees of this retirement system and to the board of trustees of the Employees' Retirement System of Georgia. Once such election is made by such personnel, the election is irrevocable during the tenure of employment with the State Board of Education or the State Department of Education. The State Board of Education shall provide by regulation for informing prospective employees who are to be employed as certified professional personnel of the option provided for by this subsection so that such personnel may choose membership in this retirement system or the Employees' Retirement System of Georgia at the time of their employment.

(h.1) Personnel employed for the first time by the State Board of Education or by the State Department of Education on or after July 1, 1988, who, at the time of becoming so employed, are members of this retirement system shall continue as members of this retirement system unless such personnel elect membership in the Employees' Retirement System of Georgia at the time of their employment. Such election shall be made in writing to the board of trustees of this retirement system and to the board of trustees of the Employees' Retirement System of Georgia. Once such election is made by such personnel, the election is irrevocable during the tenure of employment with the State Board of Education or the State Department of Education. The State Board of Education shall provide by regulation for informing prospective employees who are subject to the provisions of this subsection of the option provided for by this subsection so that such personnel may choose to continue membership in this retirement system or become members of the Employees' Retirement System of Georgia at the time of their employment.



(i)(1) This subsection shall apply to certified professional personnel in the unclassified service as defined by Code Section 45-20-2 who are employed by the State Board of Education or the State Department of Education on July 1, 1986, and who are members of the Employees' Retirement System of Georgia and have at least five years of membership service in said retirement system as of July 1, 1986.

(2) This subsection shall also apply to any personnel employed by the State Board of Education or by the State Department of Education at any time before July 1, 1988, who are members of the Employees' Retirement System of Georgia and who, at the time of becoming employed by said state board or department, had ten or more years of membership service in this retirement system.

(3) At any time from July 1, 1988, until not later than July 1, 1989, personnel described in paragraphs (1) and (2) of this subsection are authorized to transfer service credits and membership, including employer and employee contributions, from the Employees' Retirement System of Georgia to this retirement system. Any such personnel electing to transfer such service credits and membership to this retirement system shall be required to make additional contributions to this retirement system so that the annuity account balance of the transferring person shall be the same as though the transferring person had been a member of this retirement system during the period of time for which service credits are transferred from the Employees' Retirement System of Georgia to this retirement system or, in the absence of such payment, the board of trustees of this retirement system shall adjust the transferring person's credits in proportion to the contributions transferred from the Employees' Retirement System of Georgia to this retirement system. Any such personnel shall exercise the authority provided by this paragraph by written notification to the board of trustees of each of the retirement systems.

(4) If any person who transfers to this retirement system pursuant to the authority of this subsection subsequently becomes employed in a position where membership in the Employees' Retirement System of Georgia is required, any creditable service obtained under this retirement system for teaching service in school systems of other states pursuant to Code Section 47-3-89 shall not be eligible for transfer as creditable service to the Employees' Retirement System of Georgia, notwithstanding the provisions of Code Section 47-2-92 or any other provision of Chapter 2 of this title, relating to the Employees' Retirement System of Georgia.

(j)(1) Newly hired professional personnel employed for the first time by the Technical College System of Georgia on and after July 1, 1985, and all full-time nonprofessional personnel employed for the first



time after July 1, 1987, by postsecondary vocational-technical schools governed by the state board shall become members of the Teachers Retirement System of Georgia as a condition of employment if otherwise eligible under laws, rules, and regulations, unless such personnel elect membership in the Employees' Retirement System of Georgia and are otherwise eligible under laws, rules, and regulations. Once such election is made by such personnel, the election is irrevocable during the tenure of employment with the Technical College System of Georgia or any postsecondary vocational-technical school governed thereby. Newly hired employees not eligible for membership in the Teachers Retirement System of Georgia or the Employees' Retirement System of Georgia shall become members of the Public School Employees Retirement System as a condition of employment if eligible. The Technical College System of Georgia shall provide by regulation for informing prospective employees who are to be employed as certified professional personnel of the option provided for by this subsection so that such personnel shall choose membership in the Teachers Retirement System of Georgia or the Employees' Retirement System of Georgia or the Public School Employees Retirement System at the time of their employment.

(2) All full-time employees of a postsecondary vocational-technical school formerly operated by a local board of education or area postsecondary vocational education board as of July 1, 1987, or the date on which the state board assumes governance of the postsecondary vocational-technical school shall elect either to continue membership in the Teachers Retirement System of Georgia or to become members of the Employees' Retirement System of Georgia. Once such election is made by such personnel, the election is irrevocable during the tenure of employment with the Technical College System of Georgia or any postsecondary vocational-technical school governed thereby. All employees who are members of the Public School Employees Retirement System may elect to continue their membership in the Public School Employees Retirement System or to become members of the Teachers Retirement System of Georgia or the Employees' Retirement System of Georgia if otherwise eligible under laws, rules, or regulations.

(3) If any person who transfers to this retirement system pursuant to the authority of this subsection subsequently becomes employed in a position where membership in the Employees' Retirement System of Georgia is required, any creditable service obtained under this retirement system for teaching service in school systems of other states pursuant to Code Section 47-3-89 shall not be eligible for transfer as creditable service to the Employees' Retirement System of Georgia, notwithstanding the provisions of Code Section 47-2-92 or any other provision of Chapter 2 of this title.



(k) Any other provisions of law to the contrary notwithstanding, any person at least 60 years of age who first becomes a teacher on or after July 1, 1987, and any former member of the retirement system at least 60 years of age who has withdrawn from the retirement system employee contributions made during such former membership again becoming a teacher on or after July 1, 1987, shall have the right to decline membership in the retirement system. The right shall be exercised by sending written notice to the board of trustees on a form provided by the board for such purpose. The right must be exercised within 90 days after becoming a teacher. Any person declining membership in the retirement system pursuant to this subsection shall not at any time thereafter be eligible for membership in the retirement system. Any person failing to exercise the right provided by this subsection within 90 days after becoming a teacher shall become and remain a member of the retirement system as a condition of continued employment. Any employee contributions made during the first 90 days as a teacher by a person who exercises the right provided by this subsection shall be reimbursed to the person within 30 days after the board of trustees receives the written notice declining membership in the retirement system.

(l) Any other provisions of this chapter or of Chapter 2 of this title to the contrary notwithstanding, any member of this retirement system with five or more years of continuous membership service who is employed by Central State Hospital and who, without any break in employment, becomes employed in a position where membership in the Employees' Retirement System of Georgia is ordinarily required shall have the option to remain a member of this retirement system, notwithstanding the change in the member's employment status. Such option shall be exercised by notification, in writing, to the boards of trustees of this retirement system and the Employees' Retirement System of Georgia. The employer of any such member who exercises the option provided by this subsection shall be an employer for the purposes of this chapter.

(m) Any other provision of law to the contrary notwithstanding, any person who is entitled pursuant to the provisions of this article to make an election between membership in this retirement system and membership in any other retirement system and who subsequently retires and is rehired by the same employer which employed him or her immediately prior to retirement shall continue membership in the retirement system under which he or she initially retired and shall not be entitled to elect membership in any other retirement system. (Ga. L. 1943, p. 640, § 3; Ga. L. 1947, p. 1494, § 1; Ga. L. 1952, p. 254, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 270, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 394, § 1; Ga. L. 1959, p. 319, § 1; Ga. L. 1960, p. 1116, § 3; Ga. L. 1961, p. 388, § 2; Ga. L. 1964, p. 699, § 1; Ga. L. 1969, p. 384, § 1; Ga. L.



1971, p. 409, § 1; Ga. L. 1972, p. 896, § 1; Ga. L. 1973, p. 903, § 1; Ga. L. 1975, p. 1579, § 1; Ga. L. 1976, p. 1458, § 1; Ga. L. 1977, p. 825, § 1; Ga. L. 1979, p. 1007, § 1; Ga. L. 1980, p. 828, § 1; Ga. L. 1981, p. 1327, § 1; Ga. L. 1983, p. 1859, § 4; Ga. L. 1985, p. 209, § 1; Ga. L. 1986, p. 1543, § 3; Ga. L. 1986, p. 1547, §§ 1, 2; Ga. L. 1987, p. 575, § 9; Ga. L. 1987, p. 959, § 4; Ga. L. 1988, p. 1351, §§ 3, 4; Ga. L. 1988, p. 1742, § 3; Ga. L. 1992, p. 477, § 1; Ga. L. 1993, p. 1690, § 4; Ga. L. 1996, p. 389, § 1; Ga. L. 2000, p. 1268, § 1; Ga. L. 2008, p. 562, § 1/SB 434; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2010, p. 1207, § 41/SB 436; Ga. L. 2012, p. 413, § 9/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted “as defined by Code Section 45-20-2” for “of the State Personnel Administration” in paragraph (i)(1).

**Editor’s notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: “The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the

State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

## ARTICLE 5

### SERVICE CREDITABLE TOWARD RETIREMENT BENEFITS

#### **47-3-81. Transfer of service credits from Employees’ Retirement System of Georgia; limitations; additional contributions or adjustments required.**

(a) Any other provisions of law to the contrary notwithstanding, any member, other than a member subject to subsection (b) of this Code section, who was previously a member of the Employees’ Retirement System of Georgia and who has service credits with said employees’ retirement system may have such service credits and accumulated contributions under said employees’ retirement system transferred to the Teachers Retirement System of Georgia. Any member who elects to transfer such service credits and accumulated contributions shall notify the board of trustees of this retirement system in writing of the member’s election to do so. Such transferred service credits shall not be used in determining the qualifications of a member for benefits other



than vested rights, disability, death, or normal service retirement. Such member shall be required to make additional contributions to this retirement system so that the member's annuity account balance will be the same as though the member had been a member of this retirement system during the period of time for which service credits are transferred from the Employees' Retirement System of Georgia to this retirement system or, in the absence of such payment, the board of trustees shall adjust the member's credits in proportion to the accumulated contributions transferred from the Employees' Retirement System of Georgia to this retirement system. The Employees' Retirement System of Georgia shall pay an employer contribution plus regular interest to the Teachers Retirement System of Georgia for each member transferring service credits and accumulated contributions to the Teachers Retirement System of Georgia authorized in this Code section. The amount of such employer contributions shall be 6 percent of the reported compensation of the member while a member of said employees' retirement system. The employees' retirement system shall pay an additional amount of retirement contributions pursuant to Code Section 47-2-51 for an employees' retirement system member covered by Code Section 47-2-334. This payment shall be placed in the pension accumulation fund and will adjust the amount of employee retirement contributions required for service credit.

(b)(1) Any provision of this title to the contrary notwithstanding, any vested member of the Employees' Retirement System of Georgia who becomes a teacher may, at his or her option, elect to remain a member of the Employees' Retirement System of Georgia.

(2) If a person subject to this subsection elects to remain a member of the Employees' Retirement System of Georgia, the employer and teacher shall make all contributions to such retirement system and perform such other acts as are required by law or regulation.

(3) If a person subject to this subsection does not elect to remain a member of the Employees' Retirement System of Georgia, he or she shall become a member of this retirement system subject to all provisions of this chapter.

(4) This subsection shall be applicable to each person who was a member of this retirement system on January 1, 1997, and to all persons who become a member on or after such date. Any person subject to this subsection who became a member of the Employees' Retirement System of Georgia between January 1, 1997, and June 30, 1998, who elects to remain a member of this retirement system shall be governed by the provisions of subsection (a) of this Code section relating to the transfer of service credits and accumulated contributions.

(5) Any person eligible to make the election provided for in this subsection shall do so in writing to the board of trustees not later



than September 30, 2000, or within 60 days after the person became a teacher, whichever date is later. Once made, the election shall be irrevocable.

(6) The provisions of this subsection shall not become a part of the employment contract and shall be subject to subsequent legislation; provided, however, that no person who has made the election provided by this subsection shall be affected by any subsequent legislation.

(c)(1) At the time the membership of a person subject to Article 10 of Chapter 2 of this title is transferred from the Employees' Retirement System of Georgia to this retirement system, this retirement system shall receive the funds transferred from the Employees' Retirement System of Georgia pursuant to Code Section 47-2-181 and, as applicable, add the accrued benefit transferred from the Employees' Retirement System of Georgia to the accrued benefit or the balance of employee contributions and interest. The total benefits of any such member shall be subject to the rules of this retirement system.

(2) At the time the membership of a member of this retirement system transfers to the Employees' Retirement System of Georgia and is subject to Article 10 of Chapter 2 of this title, this retirement system shall:

(A) Calculate the accumulated benefit using the service and compensation at the time of the transfer;

(B) Calculate the present value of the accrued benefit using methods and assumptions adopted by the board of trustees; and

(C) Transfer to the Employees' Retirement System of Georgia the greater of the present value of the accumulated benefit or the balance of the employee contributions and interest.

(3) All service transferred pursuant to this subsection shall be calculated as credit in this retirement system for all purposes in this retirement system.

(4) This retirement system and the Employees' Retirement System of Georgia shall recalculate the accumulated benefit of any person transferred between such retirement systems from January 1, 2009, through June 30, 2012, according to the methods prescribed by this subsection. (Ga. L. 1962, p. 723, § 16; Ga. L. 1966, p. 513, § 4; Ga. L. 1968, p. 1405, § 2; Ga. L. 1986, p. 1543, § 4; Ga. L. 1992, p. 1105, § 1; Ga. L. 1998, p. 775, § 2; Ga. L. 2000, p. 1273, § 2; Ga. L. 2001, p. 21, § 1; Ga. L. 2012, p. 1051, § 4/SB 286.)

**The 2012 amendment**, effective July 1, 2012, added subsection (c).



**47-3-84.2. Credit for service by members described in subparagraphs (N) and (P) of paragraph (28) of Code Section 47-3-1.**

Repealed by Ga. L. 2013, p. 862, § 2/HB 345, effective July 1, 2013.

**Editor’s notes.** — This Code section acted by Ga. L. 1990, p. 685, § 2; Ga. L. was based on Code 1981, § 47-3-84.2, enacted by Ga. L. 1991, p. 130, § 1.

ARTICLE 7

RETIREMENT ALLOWANCES, DISABILITY BENEFITS, AND SPOUSES’ BENEFITS

**47-3-127.1. Employment of retired teacher as full-time teacher or in other capacities.**

Repealed by Ga. L. 2012, p. 667, § 1/HB 208, effective June 30, 2013.

**Editor’s notes.** — This Code section was based on Code 1981, § 47-3-127.1, enacted by Ga. L. 2002, p. 585, § 3; Ga. L. 2003, p. 139, § 1; Ga. L. 2004, p. 107, § 22; Ga. L. 2004, p. 1061, § 1; Ga. L. 2005, p. 533, § 1/HB 495; Ga. L. 2008, p. 1094, § 1/SB 327; Ga. L. 2009, p. 368, § 1/SB 48; Ga. L. 2012, p. 667, § 1/HB 208.

CHAPTER 4

PUBLIC SCHOOL EMPLOYEES RETIREMENT SYSTEM

Article 4		Article 6	
Employee and Employer Contributions to the Retirement System		Retirement, Retirement Allowances, and Disability Benefits	
Sec.		Sec.	
47-4-60.	Amount of contributions; manner of payment.	47-4-101.	Retirement benefits payable upon normal, early, or delayed retirement.

ARTICLE 4

EMPLOYEE AND EMPLOYER CONTRIBUTIONS TO THE RETIREMENT SYSTEM

**47-4-60. Amount of contributions; manner of payment.**

(a) Each member shall contribute \$4.00 monthly as the employee contribution toward the cost of the retirement system; provided, however, that any person first or again becoming a member of this



retirement system on or after July 1, 2012, shall contribute \$10.00 monthly as the employee contribution. Each local unit of administration shall deduct such amount each month from the compensation of each of its employees who is a member of the retirement system and pay the amounts so deducted to the board. The board shall specify by rules and regulations the time and manner such amounts shall be paid to it.

(b) The employer contributions toward the cost of the retirement system shall be as actuarially determined and approved by the board; and, in making such determination, each local unit of administration shall supply the board with such information at such times and in such manner as the board shall specify by rules and regulations. The amounts determined as the employer contributions shall be certified to the state treasurer at such times as the board shall specify by rules and regulations. It shall be the duty of the state treasurer to pay to the board, from funds appropriated or otherwise available to the retirement system, the amounts so certified by the board. All employer contributions shall be irrevocable and may be used only for the exclusive benefit of members or their beneficiaries. (Ga. L. 1969, p. 998, § 10; Ga. L. 1982, p. 3, § 47; Ga. L. 1993, p. 1402, § 18; Ga. L. 2010, p. 863, § 3/SB 296; Ga. L. 2012, p. 1284, § 1/SB 246.)

<p><b>The 2012 amendment</b>, effective July 1, 2012, added “; provided, however, that any person first or again becoming a member of this retirement system on or after</p>	<p>July 1, 2012, shall contribute \$10.00 monthly as the employee contribution” to the end of the first sentence in subsection (a).</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------

## ARTICLE 6

### RETIREMENT, RETIREMENT ALLOWANCES, AND DISABILITY BENEFITS

#### **47-4-101. Retirement benefits payable upon normal, early, or delayed retirement.**

(a) Any member may retire and upon application to the board receive the retirement benefits set forth in this Code section after obtaining a minimum of ten years of creditable service. The effective date of retirement shall be the first of the month in which the application is received by the board, provided that no retirement application will, in any case, be effective earlier than the first of the month following the final month of the applicant's employment. If a member retires before obtaining ten years of creditable service, he or she shall receive a lump sum refund of his or her accumulated contributions made under the retirement system to the date of his or her retirement.

(b)(1) Upon retirement on the normal retirement date, a member shall receive a monthly retirement benefit, payment of which shall



commence on the effective date of retirement and which shall be payable on the first day of each month thereafter during the member's lifetime. The amount of each monthly retirement payment shall be \$16.50 multiplied by the number of the member's years of creditable service. The retirement benefit provided under this subsection shall be payable to those members who have already retired under this chapter as well as those members who retire in the future; provided, however, that no benefit increase above \$15.00 per month shall be applied to the benefit of persons who were retired on the effective date of this Act. If the General Assembly at any time appropriates funds expressly intended to fund the benefits provided in this subsection and such amount so appropriated is not sufficient to fund the maximum amount allowable, then the retirement benefit otherwise payable under this subsection shall be reduced pro rata by the board in accordance with the funds actually appropriated by the General Assembly for such purpose, but in no event shall the retirement benefit be less than \$14.75 multiplied by the member's years of creditable service.

(2) Subject to the terms and limitations of this subsection, the board of trustees is authorized to adopt from time to time a method or methods of providing for increases in the retirement allowance paid up to the maximum benefit provided in paragraph (1) of this subsection. Such method shall be based upon:

(A) The recommendation of the actuary of the board of trustees;

(B) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(C) Such other factors as the board deems relevant.

(c) Upon retirement on his delayed retirement date, a member shall receive a monthly retirement benefit, payment of which shall commence on his delayed effective date of retirement and which shall be payable on the first day of each month thereafter during his lifetime. The amount of each monthly retirement benefit shall be computed in the same manner as for a normal retirement benefit and shall be based on the number of years of creditable service as of the member's delayed retirement date.

(d) Any member who exercises his right to retire at an early retirement date pursuant to subsections (c) through (e) of Code Section 47-4-100 shall receive a monthly retirement benefit which shall begin on the early effective date of retirement. Such benefit shall be payable on the first day of each month thereafter during his lifetime. The amount of each monthly retirement benefit shall be computed in the same manner as for a normal retirement benefit and shall be based on



the number of years of creditable service as of the member's early retirement date, provided that such benefit shall be actuarially reduced at the rate of one-half of 1 percent for each full month that such member is under 65 years of age. (Ga. L. 1969, p. 998, § 7; Ga. L. 1971, p. 917, § 2; Ga. L. 1973, p. 1197, §§ 4-6; Ga. L. 1977, p. 597, § 1; Ga. L. 1980, p. 1787, § 1; Ga. L. 1982, p. 3, § 47; Ga. L. 1983, p. 1859, § 5; Ga. L. 1988, p. 880, § 1; Ga. L. 1992, p. 1154, § 1; Ga. L. 1998, p. 151, § 1; Ga. L. 2002, p. 1131, § 1; Ga. L. 2003, p. 409, § 1; Ga. L. 2006, p. 1010, § 2/HB 1020; Ga. L. 2012, p. 1284, § 2/SB 246.)

**The 2012 amendment**, effective July 1, 2012, in paragraph (b)(1), in the second sentence, substituted "\$16.50" for "\$15.00", added "; provided, however, that no benefit increase above \$15.00 per

month shall be applied to the benefit of persons who were retired on the effective date of this Act" to the end of the third sentence, and substituted "\$14.75" for "\$12.00" in the last sentence.

## CHAPTER 5

### GEORGIA MUNICIPAL EMPLOYEES BENEFIT SYSTEM

#### Article 1

#### General Provisions

Sec.

47-5-2. Definitions.

#### Article 3

#### Retirement Plans

47-5-47. Return of contributions to employee or employee's estate.

## ARTICLE 1

### GENERAL PROVISIONS

#### 47-5-2. Definitions.

As used in this chapter, the term:

(1) "Benefit system" or "system" means the Georgia Municipal Employees Benefit System created by this chapter.

(2) "Board of trustees" or "board" means the Board of Trustees of the Georgia Municipal Employees Benefit System.

(3) "Contract" means a contract executed pursuant to this chapter between the board of trustees and a member employer.



(4) “Defined benefit” means a plan whereby retirement benefits are determined in advance by a formula and the contributions are treated as the variable factor.

(5) “Defined contribution” means a plan whereby the contributions to the plan are fixed in advance and the retirement benefit is the variable factor.

(6) “Employee” means any full-time salaried or hourly rated person in the active service of an employer and any employees of the board of trustees. Notwithstanding any laws to the contrary, the term also includes any appointed or elected member of the governing authority of a municipal corporation of this state or of an employer created pursuant to the charter of a municipal corporation of this state, the chief legal officer or any associate legal officer of a municipal corporation, and any municipal officer elected or appointed to preside over the court of a municipal corporation. Said term shall also include part-time employees of an employer for the purposes of participating in employee benefit plans.

(7) “Employee benefits” means group health benefits, group short-term disability benefits, group death benefits, group accidental death and dismemberment benefits, and such other benefits as from time to time the board may deem advisable.

(8) “Employee benefit fund” means any other pooled fund, other than the retirement fund and workers’ compensation fund, created by the board for the purpose of providing employee benefits on behalf of member employers.

(9) “Employer” means:

(A) A municipal corporation of this state;

(B) The Emergency Management Division of the State Department of Defense;

(C) Local emergency management organizations;

(D) Regional commissions created pursuant to Article 2 of Chapter 8 of Title 50 and planning and development commissions, including, but not limited to, a planning commission, planning and development commission, or area planning and development commission which is created by one or more municipalities or counties or combinations thereof to serve cities or counties or any combination thereof and which employs a staff and is governed by a separate board or other governing body and whose operations are financed through an independent budget;

(E) Authorities, including, but not limited to, a public authority, commission, board, or similar agency which is created by general,



local, or special Act of the General Assembly and which carries out its functions wholly or partly within the corporate boundaries of a municipal corporation of this state. The term also includes such bodies which are created or activated by an appropriate ordinance or resolution of the governing body of a municipal corporation individually or jointly with other political subdivisions of this state;

(F) The Georgia Municipal Association;

(G) The Jointly Owned Natural Gas Transmission Line which was established by contract by the Cities of Perry, Warner Robins, Hawkinsville, and Cochran;

(H) Consolidated city-county governments of this state;

(I) The Municipal Gas Authority of Georgia, and any successor thereto, created pursuant to Article 4 of Chapter 4 of Title 46; or

(J) A state or federally chartered credit union whose membership is comprised of municipal, county, or hospital authority employees.

(10) "Local emergency management organization" means all local organizations for emergency management established pursuant to Chapter 3 of Title 38, the "Georgia Emergency Management Act of 1981," by a municipal corporation, a county, a combination of one or more municipal corporations or counties, the Governor, or the director of emergency management at the request of the Governor.

(11) "Member employer" means an employer which has contracted to become a member of the benefit system as provided for in this chapter or an employer which is a member of a group self-insured workers' compensation fund for which the board serves as trustees.

(12) "Participating employee" means an employee of a member employer for whom contributions to the retirement fund are being made under a contract.

(13) "Retirement benefits" means defined benefits, defined contribution benefits, and death or disability retirement benefits provided by a member employer to an employee as part of the employee's compensation. The term shall also include optional settlement benefits which are determined by the board of trustees to be actuarially equivalent to the primary retirement benefits provided in a contract; deferred compensation; qualified voluntary employee contributions; and other salary deferral plans authorized by the Internal Revenue Code of the United States.

(14) "Retirement fund" means the pooled investment fund for retirement purposes created by this chapter, in which the contribu-



tions of participating employees and of member employers are commingled for investment purposes.

(15) “Workers’ compensation benefits” means benefits payable out of the workers’ compensation fund pursuant to Chapter 9 of Title 34.

(16) “Workers’ compensation fund” means a group self-insurance fund comprised of employers as defined in paragraph (9) of this Code section.

(17) “Vesting,” “vested right,” or “vested benefit” means any right of an employee to the retirement benefits attributable to a municipality’s contributions under a contract in the event of termination of employment prior to retirement. (Ga. L. 1965, p. 421, § 2; Ga. L. 1966, p. 539, § 1; Ga. L. 1968, p. 1387, § 1; Ga. L. 1972, p. 637, § 1; Ga. L. 1972, p. 747, § 1; Ga. L. 1973, p. 446, § 1; Ga. L. 1974, p. 699, § 1; Ga. L. 1975, p. 1005, § 1; Ga. L. 1984, p. 1041, § 1; Ga. L. 1988, p. 401, § 1; Ga. L. 1989, p. 52, § 1; Ga. L. 1989, p. 611, § 1; Ga. L. 1990, p. 190, § 3; Ga. L. 1992, p. 989, § 2; Ga. L. 2000, p. 131, § 1; Ga. L. 2009, p. 368, § 1/SB 48; Ga. L. 2015, p. 898, § 3/HB 266.)

**The 2015 amendment**, effective July 1, 2015, inserted “or of an employer created pursuant to the charter of a municipi-

pal corporation of this state” in the middle of paragraph (6).

### ARTICLE 3

#### RETIREMENT PLANS

#### 47-5-47. Return of contributions to employee or employee’s estate.

Except as otherwise provided with respect to the provision of death benefits under a plan, plans providing for retirement benefits established under this chapter shall provide that mandatory contributions made by a participating employee shall be returned to such employee’s surviving spouse or to the estate of the participant or the participant’s pre-retirement beneficiary in the event of death before retirement. If the employee is separated from employment prior to the time he or she is eligible for retirement benefits, such contributions shall be returned unless the employee chooses to claim his or her vested benefits, in which case the employee contributions shall remain with the fund until such time as the employee becomes eligible for the vested benefits. Such contributions may be returned without interest or with such interest as is provided in the plan. (Code 1981, § 47-5-47, enacted by Ga. L. 1984, p. 1041, § 11; Ga. L. 2015, p. 898, § 4/HB 266.)

**The 2015 amendment**, effective July 1, 2015, substituted “Except as otherwise

provided with respect to the provision of death benefits under a plan, plans” for



“Plans” at the beginning of this Code section; substituted “employee’s surviving spouse or to the estate of the participant or the participant’s pre-retirement beneficiary” for “employee or his estate” near the

middle of this Code section; and near the end of this Code section, substituted “he or she is eligible” for “he is eligible” and substituted “his or her vested benefits” for “his vested benefits”.

CHAPTER 6

GEORGIA LEGISLATIVE RETIREMENT SYSTEM

Article 1		Sec.	
General Provisions			retirement system; payment of employee contributions on behalf of the member; additional contributions.
Sec.			
47-6-1.	Definitions.		
Article 3		Article 6	
Membership in the Retirement System		Retirement, Retirement Allowances, and Death Benefits	
47-6-40.	Qualifications for membership; irrevocable election for certain members of General Assembly; membership of persons who cease to become members before age 60; termination of membership; application for additional creditable service.	47-6-80.	Eligibility and application for a retirement allowance; early retirement; amount of retirement allowance; compliance with federal tax laws; increases in retirement allowance.
		47-6-84.	Termination of retirement allowance upon return to service; retirement benefits for retired members returning to service in the General Assembly; board of trustees to be notified within 30 days if public employer employs retired plan member.
Article 4			
Employee and Employer Contributions to the Retirement System			
47-6-60.	Employee contributions to the		

ARTICLE 1

GENERAL PROVISIONS

47-6-1. Definitions.

As used in this chapter, the term:

(1) “Accumulated contributions” means the sum of all amounts deducted from the compensation of a member or paid by the member to establish or reestablish credit for service, which amounts are credited to his or her individual account in the system, together with regular interest thereon. Beginning on January 12, 1981, this term shall include the amount of employee contributions paid by the



employer on behalf of members, together with regular interest thereon, excluding employee contributions paid by the employer for group term life insurance coverage.

(2) “Beneficiary” means any person in receipt of a retirement allowance or other benefit as provided by the system.

(3) “Board” means the Board of Trustees of the Employees’ Retirement System of Georgia; provided, however, that if any member of such board of trustees is an active or retired member or a beneficiary of this retirement system, he or she shall not serve as a member of the board of trustees of this retirement system.

(4) “Creditable service” means prior service and membership service for which credit is allowable under this chapter, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall it include any service which has been or may be credited to a member by any other public retirement system of this state.

(5) “Date of establishment” means July 1, 1967.

(6) “Member” means any person included in the membership of the system.

(7) “Membership service” means service as paid for by the member, as provided for in Code Section 47-6-60.

(8) “Prior service” means service rendered prior to January 1, 1954, as a Representative, Senator, or staff member of the General Assembly and service, day for day, on active duty in any component of the armed forces of the United States during wartime or during any conflict in which military personnel were committed by the President of the United States, provided that no such service in excess of five years shall be creditable.

(8.1) “Prior service” shall also include military service which is creditable under Code Section 47-6-70.1.

(9) “Retirement allowance” means monthly payments for life pursuant to Code Section 47-6-80.

(10) “System” means the Georgia Legislative Retirement System. (Ga. L. 1967, p. 259, § 1; Ga. L. 1968, p. 1354, § 1; Ga. L. 1972, p. 704, § 1; Ga. L. 1980, p. 611, § 1; Ga. L. 1980, p. 925, § 6; Ga. L. 1983, p. 1856, § 2; Ga. L. 1985, p. 209, § 1; Ga. L. 1986, p. 30, § 1; Ga. L. 2000, p. 1277, § 1; Ga. L. 2009, p. 947, § 24/HB 202; Ga. L. 2012, p. 663, § 1/HB 183.)

**The 2012 amendment**, effective July 1, 2012, deleted former paragraph (10), which read: “‘Staff members’ means the Secretary of the Senate, the Clerk of the



House of Representatives, and the messenger and doorkeeper for each of the two houses of the General Assembly.”; and

redesignated former paragraph (11) as present paragraph (10).

### ARTICLE 3

#### MEMBERSHIP IN THE RETIREMENT SYSTEM

**47-6-40. Qualifications for membership; irrevocable election for certain members of General Assembly; membership of persons who cease to become members before age 60; termination of membership; application for additional creditable service.**

(a) Each person who first or again becomes a member of the General Assembly on or after July 1, 2012, may make an irrevocable election at the beginning of each term of office to become a member of the Georgia Legislative Retirement System within two months of taking office as a member of the General Assembly. Any member of this retirement system who is elected to a consecutive term of office and who has elected membership in this retirement system shall be deemed to have continuous membership from term to term and shall not be required to reapply each term.

(b) If a member of the system ceases to be a member of the General Assembly before attaining age 60 and for reasons other than death, such member, unless he or she withdraws his or her contributions pursuant to Code Section 47-6-85, shall continue as a noncontributing member of the system. Any such noncontributing member shall not gain any additional membership service. If he or she again becomes a member of the General Assembly and a contributing member of the system, such member shall retain the membership service previously credited to him or her. If a member subject to this subsection withdraws his or her contributions upon ceasing to be a member of the General Assembly, any membership service credited to him or her at the time such contributions are withdrawn shall be forfeited and may not be reestablished if he or she again becomes a member of the General Assembly.

(c) Should any member of the system in any period of five consecutive years after becoming a member be absent from service more than four years, withdraw his or her contributions or become a beneficiary of such system, or die, he or she shall thereupon cease to be a member.

(d) A member of the General Assembly serving on July 1, 2012, may make an irrevocable election to become a member of this retirement system and may obtain creditable service for prior service as a member of the General Assembly as provided in this Code section. In order to obtain such additional creditable service, the member must:



(1) Make application to the board of trustees in such manner as the board deems appropriate not later than December 31, 2012. Such application and payment must be made in conjunction with and simultaneously with the member's application for membership; and

(2) Pay to the board of trustees an amount determined by the board of trustees to be sufficient to cover the full actuarial cost of granting the creditable service as provided in this Code section;

provided, however, that no creditable service shall be granted or obtained pursuant to this Code section if such service may be used to calculate creditable service under any other public retirement system created by this title.

(e) A member of the General Assembly may obtain creditable service for membership in the General Assembly only for the purposes of the Georgia Legislative Retirement System, and no service as a member of the General Assembly which is obtained after December 31, 1985, by any such member shall be creditable or used as creditable service for the purposes of any other public retirement or pension system of this state. (Ga. L. 1967, p. 259, § 4; Ga. L. 1971, p. 930, § 1; Ga. L. 1980, p. 611, § 2; Ga. L. 2010, p. 1207, § 51/SB 436; Ga. L. 2012, p. 663, § 2/HB 183.)

**The 2012 amendment**, effective July 1, 2012, substituted the present provisions of subsection (a) for the former provisions, which read: "All persons who are members of the General Assembly on July 1, 1967, shall become members of the system as of such date, except that within six months from such date any such person may irrevocably elect not to be a

member of the system. All other persons shall become members of the system on taking office as members of the General Assembly. Staff members shall have the option to become members of the system under the same conditions as elected members of the General Assembly."; and added subsections (d) and (e).

## ARTICLE 4

### EMPLOYEE AND EMPLOYER CONTRIBUTIONS TO THE RETIREMENT SYSTEM

#### **47-6-60. Employee contributions to the retirement system; payment of employee contributions on behalf of the member; additional contributions.**

(a) Each member shall contribute 7 1/2 percent of his monthly salary. Such contributions shall be made through payroll deductions by the legislative fiscal officer.

(b) Every member shall be deemed to consent and agree to the deductions made and provided for in this Code section; and payment of salary or compensation less such deduction shall be a full and complete



discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payments, except as to the benefits provided under the system.

(c) Each of the amounts so deducted shall be credited to the individual account of the member from whose compensation the deduction was made.

(d) From and after January 12, 1981, the employer shall pay to the system on each and every payroll period employee contributions and group term life insurance contributions on behalf of and to the credit of members in an amount equal to the amount which would be paid pursuant to Code Section 47-2-54 if the member were a member of the Employees' Retirement System of Georgia. Such members shall have the additional amount of employee contributions required by this chapter deducted by the legislative fiscal officer from their monthly salary.

(e) All members shall retain, have, and be subject to all other rights, privileges, obligations, and duties provided for by other provisions of this chapter; and all such other provisions shall remain in full force and effect with respect to any matter not specifically provided for in this Code section.

(f) In addition to the employee contributions required by subsections (a) and (d) of this Code section, effective July 1, 1986, each member shall contribute 1 percent of the member's monthly salary to the system. Such members shall have such additional amount of employee contributions required by this subsection deducted by the legislative fiscal officer from their monthly salary along with the other deduction from such salary made by said legislative fiscal officer pursuant to subsections (a) and (d) of this Code section.

(g) The employee contributions described in this chapter that are paid by the employer are intended to be pick-up contributions in accordance with Section 414(h) of the federal Internal Revenue Code. Such contributions are mandatory, and no member is entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the retirement system. Such contributions shall be 100 percent vested for all purposes under the retirement system. (Ga. L. 1967, p. 259, § 12; Ga. L. 1979, p. 931, § 2; Ga. L. 1980, p. 611, § 6; Ga. L. 1980, p. 925, § 8; Ga. L. 1986, p. 1255, § 1; Ga. L. 1987, p. 146, § 1; Ga. L. 2014, p. 223, § 3/HB 843.)

**The 2014 amendment**, effective July 1, 2014, added subsection (g).



## ARTICLE 6

RETIREMENT, RETIREMENT ALLOWANCES, AND DEATH  
BENEFITS**47-6-80. Eligibility and application for a retirement allowance;  
early retirement; amount of retirement allowance;  
compliance with federal tax laws; increases in retire-  
ment allowance.**

(a) Upon the written application to the board, any member of the system who (1) has attained age 65 and has completed eight or more years of creditable service or (2) has attained age 62 and has completed eight or more years of membership service shall be retired by the board on a retirement allowance and shall thereupon become a beneficiary of the system, provided that he is no longer in the service of the state, whether as a member of the General Assembly or otherwise. In lieu of eight years of service, a member may substitute four terms of office in the General Assembly.

(b) The effective date of retirement shall be the first day of the month in which the application is received by the board, but such effective date shall not, in any case, be earlier than the first day of the month following the final month of the applicant's employment. Applications for retirement shall not be accepted more than 90 days in advance of the effective date of retirement.

(c) Normal retirement age for a member with at least eight years of membership service shall be the date the member has reached 62 years of age. Normal retirement age for a member with less than eight years of membership service but with at least eight years of creditable service shall be the date the member has reached 65 years of age. Any member of the system who has completed eight or more years of membership service and who has attained age 60 may elect to retire prior to age 62, provided that in such event, the member's retirement allowance shall be reduced by 5 percent for each year below age 62.

(d) Upon such retirement under subsection (a) of this Code section, the retired member shall receive a monthly service retirement allowance which shall be equal to \$28.00 multiplied by the number of years of the member's creditable service.

(d.1) The board of trustees is authorized to provide for the payment of benefits to members or beneficiaries of the retirement system at a time and under circumstances not provided for in this chapter to the extent that such payment is required to maintain the retirement system as a qualified retirement plan for purposes of federal income tax laws and regulations.



(e) Any increase in benefits payable under the retirement system which becomes effective as a result of a change in the benefit formula provided for by subsection (d) of this Code section shall be applicable to beneficiaries of the system who are receiving benefits at the time the increase becomes effective.

(f) Subject to the terms and limitations of this Code section, the board of trustees is authorized to adopt from time to time a method or methods of providing for increases in the retirement allowance provided in subsection (d) of this Code section for persons theretofore or thereafter retiring under this article. Such method shall be based upon:

(1) The recommendation of the actuary of the board of trustees;

(2) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(3) Such other factors as the board deems relevant;

provided, however, that any such increase shall be uniform and shall apply equally to all members of this retirement system.

(g) Notwithstanding any other provision of this Code section, no member who becomes a member of this retirement system on or after July 1, 2009, shall be entitled to receive any postretirement benefit adjustment. (Ga. L. 1967, p. 259, § 6; Ga. L. 1968, p. 1354, § 2; Ga. L. 1971, p. 930, § 2; Ga. L. 1979, p. 931, § 1; Ga. L. 1980, p. 611, § 3; Ga. L. 1986, p. 1255, § 2; Ga. L. 1990, p. 510, § 1; Ga. L. 2000, p. 1277, § 2; Ga. L. 2009, p. 320, § 3/HB 452; Ga. L. 2009, p. 947, § 26/HB 202; Ga. L. 2013, p. 688, § 1/SB 178.)

**The 2013 amendment**, effective July 1, 2013, added subsection (d.1).

**47-6-84. Termination of retirement allowance upon return to service; retirement benefits for retired members returning to service in the General Assembly; board of trustees to be notified within 30 days if public employer employs retired plan member.**

(a) As used in this Code section, the term “public employer” means any branch of state government and any state agency, department, board, bureau, or other instrumentality. This term also includes the Board of Regents of the University System of Georgia and any public school system, including, but not limited to, primary, secondary, and postsecondary institutions operated by local or independent boards of education that receive any funds from the State of Georgia or any agency thereof.



(b)(1) Except as provided in paragraph (2) of this subsection, if any retired member returns to the service of a public employer in any position, including, without limitation, service directly or indirectly as or for an independent contractor, except as a member of the General Assembly, the member's retirement allowance shall cease. Upon cessation of such service, the retired member, after proper notification to the board, shall receive the same retirement allowance which the member was receiving prior to returning to service of a public employer.

(2) Notwithstanding any other provisions in this chapter to the contrary, the retirement allowance of a retired member who returns to the service of a public employer in any position, including, without limitation, service directly or indirectly as or for an independent contractor, other than as a member of the General Assembly shall not cease provided that such member performs no more than 1,040 hours of such service in any calendar year.

(c)(1) If a retired member returns to service as a member of the General Assembly after the member has reached normal retirement age, the retired member may either continue to receive a retirement benefit while serving as a member of the General Assembly or reestablish active membership in the retirement system. If the election is to reestablish active membership in the retirement system, the member shall have the same creditable service which the member possessed at the time of retirement and shall accumulate additional creditable service so long as such active membership continues. Except as otherwise provided by paragraph (2) of this subsection, a retired member who returns to service in the General Assembly shall make the election provided for in this paragraph within 30 days after taking office. Such election shall be made in writing to the board of trustees and shall be irrevocable. If a retired member returns to service as a member of the General Assembly before the member has reached normal retirement age, the retired member shall reestablish active membership in the retirement system. The member shall have the same creditable service which the member possessed at the time of retirement and shall accumulate additional creditable service so long as such active membership continues.

(2) A retired member who returned to service in the General Assembly prior to the existence of the option to reestablish active membership in the retirement system shall have the right to make the election provided for in paragraph (1) of this subsection at any time prior to January 1, 1991. In addition to creditable service provided for in paragraph (1) of this subsection, any such retired member who elects to reestablish active membership in the retire-



ment system may obtain creditable service for service in the General Assembly rendered from the time of returning to service in the General Assembly until the date of reestablishing active membership in the retirement system. In order to obtain such creditable service, the member shall pay to the board of trustees the employee contributions which would have been paid to the retirement system during the period for which such creditable service is claimed, plus regular interest thereon compounded annually from the time the service in the General Assembly was rendered until the date of payment.

(d) Any public employer that employs a retired plan member shall within 30 days of the employee's accepting employment notify the board of trustees in writing stating the name of the plan member and the number of hours the employee is expected to work annually and shall provide such other information as the board may request. Any employer that fails to notify the board of trustees as required by this subsection shall reimburse the retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan member seeking employment by the employer to notify the employer of his or her retirement status prior to accepting such position. If a retired plan member fails to so notify the employer and the employer becomes liable to the retirement system, the plan member shall hold the employer harmless for all such liability. (Ga. L. 1967, p. 259, § 11; Ga. L. 1980, p. 611, § 5; Ga. L. 1990, p. 534, § 2; Ga. L. 1992, p. 2748, § 1; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2009, p. 947, § 27/HB 202; Ga. L. 2012, p. 663, § 3/HB 183; Ga. L. 2013, p. 688, § 2/SB 178.)

**The 2012 amendment**, effective July 1, 2012, added subsection (c).

**The 2013 amendment**, effective July 1, 2013, added subsection (a); redesignated former subsections (a) and (b) as subsections (b) and (c), respectively; in paragraph (b)(1), substituted "returns to the service of a public employer" for "who has not yet reached normal retirement age returns to the service of the state" in the first sentence and substituted "to service of a public employer" for "to state service" in the last sentence; in paragraph (b)(2), deleted "who has reached normal retirement age or has not been employed by or rendered service for the state and" following "retired member" and substi-

tuted "a public employer" for "the state"; deleted former paragraph (c)(1), which read: "As used in this subsection, the term 'public employer' means any branch of state government and any state agency, department, board, bureau, or other instrumentality. This term also includes the Board of Regents of the University System of Georgia and any public school system, including, but not limited to, primary, secondary, and postsecondary institutions operated by local or independent boards of education that receive any funds from the State of Georgia or any agency thereof."; and redesignated former paragraph (c)(2) as present subsection (d).



CHAPTER 7

GEORGIA FIREFIGHTERS' PENSION FUND

<b>Article 1</b>		<b>Article 5</b>	
<b>General Provisions</b>		<b>Service Creditable Toward Retirement</b>	
Sec.		Sec.	
47-7-1.	Definitions.	47-7-87.	Credit for prior eligible service; requirements.
<b>Article 2</b>		47-7-90.	Impact of sentence of confinement on accrual of creditable service.
<b>Administration and Management of the Assets of the Fund</b>		<b>Article 6</b>	
47-7-20.	Membership of the board; manner of election; compensation and expenses.	<b>Retirement, Retirement Allowances, Disability Benefits, and Death Benefits</b>	
<b>Article 3</b>		47-7-100.	Eligibility for full pension benefits; eligibility for partial benefits; optional pension benefits; vesting of rights to pension benefits; early retirement provisions.
<b>Membership in the Fund</b>		47-7-103.	Benefits payable to a named beneficiary upon death of active member before benefits have commenced or before benefits equal to active member's dues have been paid; benefits payable upon death of retired member before benefits have commenced or before benefits equal to the retired member's dues have been paid.
47-7-40.	Eligibility to apply for membership; transfer of Georgia Class Nine Fire Department Pension Fund.	<b>Article 7</b>	
47-7-41.	Effect of withdrawal of contributions or termination of employment; inactive membership; eligibility for reinstatement; credit for time spent on leave of absence and resumption of payments to fund upon reinstatement as active member.	<b>Miscellaneous Provisions</b>	
<b>Article 4</b>		47-7-126.	Penalty for false statements or falsified records; correction of errors by the board.
<b>Financing the Fund</b>			
47-7-60.	Dues required of active members; effect of failure to pay dues in timely manner; suspended membership.		

ARTICLE 1

GENERAL PROVISIONS

47-7-1. Definitions.

As used in this chapter, the term:

- (1) “Active member” means an individual who has been granted membership in the fund in accordance with the rules of this chapter



and who is not an inactive member, a suspended member, a retired member, or a withdrawn member.

(2) “Board” means the Board of Trustees of the Georgia Firefighters’ Pension Fund.

(3) “Fire department” means a full-time fire department or volunteer fire department or a combination full-time and volunteer fire department which satisfies the following criteria:

(A) The fire department holds a valid certificate of compliance issued by the Georgia Firefighter Standards and Training Council pursuant to Article 2 of Chapter 3 of Title 25; and

(B) The public fire suppression facilities of the fire department are ratable not less favorably than a class nine rating under standards set forth in the Fire Suppression Rating Schedule, Section I, Public Fire Suppression, Edition 6-80, Copyright 1980, published by the Insurance Services Office, a rating organization licensed by the Commissioner of Insurance, which schedule is maintained on file with the Commissioner of Insurance as required by general law and which has not been disapproved by the Commissioner, or less than a rating which the board by regulation determines is substantially equivalent under rating standards published by a rating organization licensed by the Commissioner of Insurance performing similar rating functions which standards are maintained on file with the Commissioner of Insurance and which have not been disapproved by the Commissioner.

The board may require annual certification by the chief of a fire department of the satisfaction of such requirements as a condition to the eligibility of firefighters and volunteer firefighters to become members of the fund to obtain creditable service with the fund.

(4) “Firefighter” means a person who is:

(A) A permanent, compensated employee of a fire department who in the course of his or her employment by and within a department either is a candidate for or holds a current firefighter’s certificate issued under Article 1 of Chapter 4 of Title 25 and has as incident to his or her position of employment the principal duty of, and actually performs the function of, preventing and suppressing fires and who works at least 1,040 hours per year; provided, however, that such term shall not include persons whose primary responsibility is the performance of emergency medical services; or

(B) Appointed and regularly enrolled as a volunteer with a volunteer fire department or combination full-time and volunteer fire department which satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section 25-3-23 and who, as a



volunteer firefighter, has and primarily performs the principal responsibility of preventing or suppressing fires.

(5) "Full-time fire department" means a full-time department, bureau, division, or other organizational unit, separately organized and administered as such, of this state or any municipality or other political subdivision thereof, which organizational unit:

(A) Has, as an organizational unit, the principal responsibility to prevent and suppress fires; and

(B) Is financed by public appropriation or subscription and is not privately owned.

A full-time fire department includes the fire chief or chief operating officer of the organizational unit and only those employees who are under the direction and supervision of the fire chief or chief operating officer.

(6) "Fund" means the Georgia Firefighters' Pension Fund.

(7) "Inactive member" means an individual who was an active member of the fund who obtained a leave of absence in accordance with Code Section 47-7-41 and who has not withdrawn his or her dues pursuant to Code Section 47-7-60.

(8) "Part-time employment" means working at a permanent job position for less than 40 hours a week but at least 1,040 hours a year.

(9) "Retired member" means an individual who was an active member of the fund who has commenced receipt of benefits pursuant to Article 6 of this chapter or pursuant to Code Section 47-7-102.

(10) "Suspended member" means an individual who was an active member of the fund who owes at least six months of dues payments pursuant to Code Section 47-7-60.

(11) "Volunteer fire department" means a volunteer fire department staffed by firefighters, volunteer firefighters, or a combination of firefighters and volunteer firefighters, separately organized and administered as such, of this state or any municipality or other political subdivision of this state or serving any fire district therein, which:

(A) Has the principal responsibility to prevent and suppress fires;

(B) Is financed by public appropriation or subscription and is not privately owned;

(C) Holds drills and meetings of not less than eight hours monthly; and



(D) Meets the requirements imposed by Code Section 47-7-81.

(12) “Volunteer firefighter” means an individual who is appointed and regularly enrolled as a volunteer, with or without compensation, with a fire department; who, as a volunteer firefighter, has and primarily performs the principal responsibility of preventing or suppressing fires; and who satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section 25-3-23.

(13) “Withdrawn member” means an individual who was an active member of the fund who has had his or her moneys refunded pursuant to Code Section 47-7-105. (Ga. L. 1955, p. 339, § 1; Ga. L. 1956, p. 368, § 1; Ga. L. 1961, p. 417, § 1; Ga. L. 1974, p. 377, § 1; Ga. L. 1976, p. 241, §§ 1, 2; Ga. L. 1983, p. 1310, § 1; Ga. L. 1985, p. 209, § 1; Ga. L. 1991, p. 755, § 2; Ga. L. 1992, p. 477, § 1; Ga. L. 1994, p. 703, § 1; Ga. L. 1995, p. 27, § 1; Ga. L. 1995, p. 1064, § 1; Ga. L. 1997, p. 1376, § 1; Ga. L. 2006, p. 120, § 1/HB 749; Ga. L. 2006, p. 122, §§ 1, 2, 3, 4/HB 344; Ga. L. 2010, p. 197, §§ 1, 2/HB 1150; Ga. L. 2014, p. 478, § 1/SB 235; Ga. L. 2015, p. 898, § 5/HB 266.)

**The 2014 amendment**, effective July 1, 2014, in subparagraph (3)(A), substituted “permanent, compensated” for “full-time” near the beginning and inserted “and who works at least 1,040 hours per year” near the end; deleted former paragraph (3.1), which read: “‘Full-time employment’ means working at a permanent job position for at least 40 hours a week.”; and added “but at least 1,040 hours a year” at the end of paragraph (5.1).

**The 2015 amendment**, effective July 1, 2015, added paragraph (1); renumbered former paragraphs (1) through (5) as present paragraphs (2) through (6), respectively; in present paragraph (3), substituted “full-time” for “full time” twice in the introductory language, and substituted “holds a valid certificate of compliance issued by the Georgia Firefighter Standards and Training Council pursuant to

Article 2 of Chapter 3 of Title 25” for “is certified by the superintendent of the Georgia Firefighter Standards and Training Council pursuant to Article 1 of Chapter 4 of Title 25” in subparagraph (3)(A); substituted “full-time” for “full time” in present subparagraph (4)(B); in present paragraph (5), substituted “‘Full-time fire department’ means a full-time” for “‘Full time fire department’ means full time” in the introductory language, and substituted “full-time fire department” for “full time fire department” at the end of paragraph (5); added paragraph (7); redesignated former paragraph (5.1) as present paragraph (8); in paragraph (8), substituted “‘Part-time employment’ means” for “‘Part time employment’ means”; added paragraphs (9) and (10); redesignated former paragraphs (6) and (7) as present paragraphs (11) and (12), respectively; and added paragraph (13).



## ARTICLE 2

ADMINISTRATION AND MANAGEMENT OF THE ASSETS OF  
THE FUND**47-7-20. Membership of the board; manner of election; compensation and expenses.**

(a) To carry out this chapter, there is created the Board of Trustees of the Georgia Firefighters' Pension Fund. The board shall consist of five members as follows:

- (1) The Governor or the Governor's designee;
- (2) The Commissioner of Insurance or the Commissioner of Insurance's designee;
- (3) Two active members of the fund appointed by the Governor; and
- (4) One retired member of the fund appointed by the Governor.

(b) The first members appointed by the Governor pursuant to paragraphs (3) and (4) of subsection (a) of this Code section shall be appointed to take office on July 1, 1984. One of the persons appointed pursuant to paragraph (3) of subsection (a) of this Code section and the person appointed pursuant to paragraph (4) of subsection (a) of this Code section shall each be appointed for an initial term of two years. The remaining person appointed pursuant to paragraph (3) of subsection (a) of this Code section shall be appointed for an initial term of four years. Thereafter, successors shall be appointed by the Governor to take office upon the expiration of the respective terms of office for terms of four years. All such members shall serve until their successors are appointed and qualified. In the event of a vacancy during the term of office of any such member, the Governor shall appoint a qualified person to fill such vacancy for the unexpired term.

(c) The Georgia State Firefighters' Association shall be authorized to submit to the Governor the names of nominees for each position on the board appointed by the Governor pursuant to subsection (b) of this Code section. The Governor, in making such appointments, may consider the nominees submitted by said association, but all such appointments shall be at the sole discretion of the Governor, and the Governor shall not be required to appoint members of the board from such nominees.

(d) Members of the board shall serve without pay but all members of the board shall be reimbursed for all necessary expenses that they may incur through service on the board. (Ga. L. 1955, p. 339, § 2; Ga. L. 1984, p. 828, § 1; Ga. L. 1992, p. 477, § 1; Ga. L. 1995, p. 332, § 1; Ga. L. 1997, p. 1376, § 1; Ga. L. 2015, p. 898, § 6/HB 266.)



The 2015 amendment, effective July 1, 2015, substituted “retired member” for “retired beneficiary” in paragraph (a)(4).

### ARTICLE 3

#### MEMBERSHIP IN THE FUND

#### **47-7-40. Eligibility to apply for membership; transfer of Georgia Class Nine Fire Department Pension Fund.**

(a)(1) Any person employed as a firefighter or enrolled as a volunteer firefighter is eligible to make application to the board for membership in the fund; provided, however, that no person under a sentence of confinement shall be eligible for membership in the fund while he or she is incarcerated.

(2) Upon becoming a member of the fund, a firefighter or volunteer firefighter shall receive credit only from the date of his or her becoming a member of the fund.

(b) After April 1, 1989, no person who is a member of the Peace Officers’ Annuity and Benefit Fund shall be eligible for membership in the fund by virtue of any employment in or appointment to a position the duties of which qualify such person for membership in the Peace Officers’ Annuity and Benefit Fund.

(c) On and after July 1, 2006, the membership, assets, and administration of the Georgia Class Nine Fire Department Pension Fund created by Chapter 7A of this title shall be transferred to this pension fund, and the Georgia Class Nine Fire Department Pension Fund shall cease to exist as a separate entity. All members so transferred shall receive creditable service for all service credited under such retirement system and shall be entitled to all rights and benefits accorded to members of this retirement system.

(d) Any person who, on June 30, 2006, was an active member of the fund by virtue of holding a position other than as a firefighter, in accordance with the qualifications for membership in effect on that date, shall be entitled to remain a member of the fund; provided, however, that if such person has a break in such position that qualified him or her for membership on June 30, 2006, or any other eligible employment provided by this Code section, for greater than 30 days, that member shall be deemed a suspended member, and any future membership shall be subject to laws and regulations in effect when that member’s application for reinstatement as an active member is approved. (Ga. L. 1955, p. 339, § 5; Ga. L. 1956, p. 368, § 4; Ga. L. 1968, p. 441, § 1; Ga. L. 1976, p. 241, § 4; Ga. L. 1979, p. 364, § 1A; Ga. L. 1984, p. 990, § 2; Ga. L. 1985, p. 209, § 1; Ga. L. 1987, p. 1040, §§ 1, 2;



Ga. L. 1989, p. 339, § 1; Ga. L. 1991, p. 755, § 4; Ga. L. 1993, p. 476, § 1; Ga. L. 1997, p. 1376, § 1; Ga. L. 2006, p. 120, § 2/HB 749; Ga. L. 2006, p. 122, § 5/HB 344; Ga. L. 2014, p. 168, § 1/HB 460; Ga. L. 2015, p. 898, § 7/HB 266.)

**The 2014 amendment**, effective July 1, 2014, added the proviso in paragraph (a)(1).

**The 2015 amendment**, effective July 1, 2015, substituted the present provisions of subsection (d) for the former provisions, which read: "Any person who, on June 30, 2006, was an active member of the fund by virtue of holding a position

other than as a certified firefighter or a candidate for such certification, in accordance with the qualifications for membership in effect on that date, shall be entitled to remain a member of the fund; provided, however, that if such person has a break in membership any future membership shall be subject to laws and regulations in effect at such time."

**47-7-41. Effect of withdrawal of contributions or termination of employment; inactive membership; eligibility for reinstatement; credit for time spent on leave of absence and resumption of payments to fund upon reinstatement as active member.**

(a)(1) Any active member who leaves work as a firefighter or volunteer firefighter, and who elects to leave in the fund during such leave from work as a firefighter or voluntary firefighter the dues which the member has theretofore paid, shall, upon application to the board, be entitled to obtain a leave of absence from the fund for a period of not more than two years and shall be deemed an inactive member. An inactive member may apply for additional leaves of absence from the fund every two years. If an inactive member fails to apply for and maintain in effect a leave of absence, the board may treat such failure as an election to withdraw from membership in the fund as provided in subsection (b) of this Code section and Code Section 47-7-105.

(2) An inactive member shall, upon application to the board, be entitled to reinstatement as an active member; provided, however, that upon such application, the applicant meets the requirements set forth in Code Section 47-7-40 as a prerequisite to reinstated active membership. Such a reinstated active member shall be entitled to credit for service rendered before obtaining a leave of absence and after reinstatement but shall not be entitled to credit for any period during such leave of absence.

(b) Any member may at any time elect to withdraw from membership in the fund and upon such withdrawal shall be entitled to a refund of moneys as provided in Code Section 47-7-105, and such member shall be deemed a withdrawn member. Any withdrawn member shall not thereafter be eligible for membership or benefits except upon reinstatement to active membership in accordance with this subsection. Any withdrawn member may make application to the board for reinstatement



ment as an active member. Upon making such application, the applicant must pay to the fund a reinstatement fee of \$100.00. An applicant for reinstatement of membership in the fund as provided in this subsection shall not be entitled to such reinstatement unless at the time of such application the applicant meets the requirements set forth in Code Section 47-7-40. Upon reinstatement, such reinstated active member shall be entitled to credit for service rendered after reinstatement as an active member but not for service prior to the date of reinstatement. Any such applicant who fails to satisfy the requirements of reinstatement shall not be entitled to reinstatement as an active member. (Ga. L. 1956, p. 368, § 5; Ga. L. 1968, p. 441, § 2; Ga. L. 1979, p. 364, § 1; Ga. L. 1989, p. 339, § 2; Ga. L. 1991, p. 755, § 5; Ga. L. 1993, p. 476, § 2; Ga. L. 1997, p. 1376, § 1; Ga. L. 2000, p. 1449, § 5; Ga. L. 2015, p. 898, § 8/HB 266.)

**The 2015 amendment**, effective July 1, 2015, rewrote this Code section.

## ARTICLE 4

### FINANCING THE FUND

#### **47-7-60. Dues required of active members; effect of failure to pay dues in timely manner; suspended membership.**

(a) Each active member shall pay to the fund the sum of \$25.00 for each month of service as a firefighter or volunteer firefighter in a fire department. Such monthly payments shall be due on or before the tenth day of each month of service.

(b)(1) Any active member who becomes six months in arrears in making such payments shall be deemed a suspended member.

(2) A suspended member may make application to the board for reinstatement as an active member. As a condition of such reinstatement, the applicant must pay to the fund a reinstatement fee of \$100.00. Upon such reinstatement as an active member, such member shall be entitled to credit for service rendered after reinstatement. If such member has not withdrawn the dues he or she paid to the fund prior to becoming a suspended member, then he or she shall be entitled to creditable service for service rendered prior to his or her becoming a suspended member. A suspended member who applies for reinstatement as an active member shall not be entitled to reinstatement unless at the time of such application the applicant meets the requirements set forth in Code Section 47-7-40.

(c) If a suspended member who has attained the minimum service credits required for a normal retirement benefit under Code Section



47-7-100 is not reinstated as an active member, then, provided that such member does not withdraw dues paid to the fund, such member shall be entitled to a normal retirement benefit payable under Code Section 47-7-100. The normal retirement benefit to which such member may thereafter become entitled upon termination of service shall be calculated as of the date of the member's suspension from the fund, using the service credits and age the member had attained on the date of suspension, which shall be deemed to be the youngest age at which early retirement benefits may commence or such greater age as the member has actually attained on that date, and the maximum monthly benefit in effect on such date of becoming a suspended member. (Ga. L. 1955, p. 339, § 5; Ga. L. 1968, p. 441, § 1; Ga. L. 1976, p. 241, § 4; Ga. L. 1984, p. 990, § 3; Ga. L. 1991, p. 755, § 6; Ga. L. 1993, p. 476, § 3; Ga. L. 1997, p. 1376, § 1; Ga. L. 2000, p. 562, §§ 1, 2; Ga. L. 2013, p. 755, § 1/HB 238; Ga. L. 2015, p. 898, § 9/HB 266.)

**The 2013 amendment**, effective July 1, 2013, substituted "\$25.00" for "\$15.00" in the middle of the first sentence of subsection (a).

**The 2015 amendment**, effective July 1, 2015, rewrote this Code section.

## ARTICLE 5

### SERVICE CREDITABLE TOWARD RETIREMENT

#### **47-7-87. Credit for prior eligible service; requirements.**

(a) As used in this Code section, the term "prior eligible service" means service rendered between July 1, 2006, and June 30, 2014, as a firefighter in part-time employment.

(b) Any member of the fund shall be entitled to credit for prior eligible service, provided that such person satisfies the following requirements:

(1) The member or applicant for membership files with the board on or before September 30, 2014, an application for such credit in the form prescribed by the board; and

(2) At the time of application for credit, the member or applicant for membership either:

(A) Pays to the fund for each month of prior eligible service credit sought an amount equal to the contributions that would have been made had the member or applicant been a member and entitled to credit during the period of prior eligible service, at the monthly contribution rate in effect at the time the application for credit is made, together with interest on such monthly amount from the date on which such contribution would have been made



until the date of application for credit at a rate of 12 percent per year; or

(B) Presents proof that such contributions were timely paid during such period.

(c) Nothing in this Code section shall alter the requirements for membership in the fund or the limitations on membership or benefits of membership which would otherwise apply absent the benefit of prior eligible service credits under this Code section. (Code 1981, § 47-7-87, enacted by Ga. L. 2000, p. 1507, § 1; Ga. L. 2014, p. 478, § 1/SB 235.)

**The 2014 amendment**, effective July 1, 2014, rewrote subsection (a), which read: “As used in this Code section, the term ‘prior eligible service’ means service:

“(1) Rendered by a member of the fund as a firefighter or volunteer firefighter;

“(2) Rendered without interruption prior to the date such member became a member of the fund; and

“(3) For which the member would otherwise have been eligible for credit if such member had been a member of the fund at the time such service was rendered;

“provided, however, that such term

shall not include a period of more than five years of such service.”; in subsection (b), in the introductory paragraph, deleted “person who is a” following “Any” and deleted “on July 1, 2000, and who is at least 53 years old on that date” following “member of the fund”; substituted “September 30, 2014” for “September 1, 2000” in paragraph (b)(1); and, in paragraph (b)(2), substituted “either: (A) Pays to the fund” for “pays to the fund”, added “; or” at the end, and added subparagraph (b)(2)(B).

#### **47-7-90. Impact of sentence of confinement on accrual of creditable service.**

A member shall not earn creditable service for any service rendered during the time period in which the member is incarcerated under a sentence of confinement. (Code 1981, § 47-7-90, enacted by Ga. L. 2014, p. 168, § 2/HB 460.)

**Effective date.** — This Code section became effective July 1, 2014.

### **ARTICLE 6**

#### **RETIREMENT, RETIREMENT ALLOWANCES, DISABILITY BENEFITS, AND DEATH BENEFITS**

#### **47-7-100. Eligibility for full pension benefits; eligibility for partial benefits; optional pension benefits; vesting of rights to pension benefits; early retirement provisions.**

(a) As used in this Code section, the term:

(1) “Selected beneficiary” means any person designated from time to time before or after the approval of an application for retirement by



the member in writing on forms prescribed by the board to receive benefits which continue to be payable upon the death of the member.

(2) "Spouse" means the husband or wife to whom the member is validly married under the laws of this state at the time of the approval by the board of an application for retirement or at the time of the approval of a later exercise by such member of an option granted by this Code section and who holds such status at the time benefits became payable to such person on account of the death of a member.

(b)(1) Any eligible member who has attained the age of 55 years and who terminates service as a firefighter or volunteer firefighter after at least 25 years of service, upon application to and approval by the board, shall have a vested right in an amount equal to the maximum monthly retirement benefit in effect on the date the board approves such application. Such benefits shall commence on the date of the member's termination of service.

(2) Any eligible member who terminates service as a firefighter or volunteer firefighter after 25 years of service, but before reaching the age of 55 years, may, upon filing an application with the board, cease payment of such member's monthly dues following such termination of service and, upon reaching the age of 55 years and being otherwise eligible, shall be paid a monthly benefit equal to the maximum monthly retirement benefit in effect on the date such member attains the age of 55 years.

(c) Any eligible member who terminates service as a firefighter or volunteer firefighter after at least 15 years of service, upon application to and approval by the board, shall have a vested right in and to a monthly benefit payable for the member's lifetime equal to a pro rata amount of the maximum monthly retirement benefit provided in subsection (b) of this Code section in effect on the date of such termination of service, which amount shall be determined by the ratio of years served, being not less than 15 nor more than 25, to the full 25 year service retirement. Such benefits shall become payable when the member reaches 55 years of age or when he or she terminates employment as a firefighter or volunteer firefighter, whichever is later.

(d) At any time prior to approval by the board of an application for retirement, a member may elect or may revoke a previous election and make a new election to have monthly benefits payable under one of the options set forth in this subsection, in lieu of the benefits payable under subsection (b) or (c) of this Code section. The benefits shall be paid in accordance with the terms of the option elected. Election of any option shall be made by the member on forms provided by the board and shall be subject to approval by the board, which approval shall not be



unreasonably withheld. No optional election is available for payment of disability benefits.

(1) Option A, the joint and survivor option, shall consist of a decreased retirement benefit which shall be payable during the joint lifetime of both the member and the member's spouse and which shall continue after the death of the member during the lifetime of the spouse in the amount chosen by the member, which amount shall be 100 percent, 75 percent, 66  $\frac{2}{3}$  percent, or 50 percent of the member's benefits. Any member who has completed 15 years of creditable service may elect that, in the event of the member's death prior to receiving any retirement benefits under this chapter, the member's spouse shall receive decreased retirement benefits in the amount elected by the member, which amount shall be 100 percent, 75 percent, 66  $\frac{2}{3}$  percent, or 50 percent of the benefits to which the member would have been entitled based upon the member's creditable service as of the time of the member's death. The decreased retirement benefits payable to the spouse of a member who dies prior to receiving any retirement benefits under this chapter shall commence on the date the member would have become 55 years of age and shall not be payable unless, prior to the member's death, the member had elected such benefits in the form and manner prescribed by the board and had filed such election with the board.

(2) Option B, the ten years' certain and life option, shall consist of a decreased retirement benefit payable to the member during the member's lifetime; and, in the event of the member's death within ten years after the member's retirement, the same monthly benefits shall be payable to the member's selected beneficiary, or, if the member so elects, the total monthly benefit may be divided equally among up to five selected beneficiaries, for the balance of such ten-year period.

(3) If a member selects Option A, then, after the approval of the application for retirement, the following provisions apply:

(A) If the member's spouse shall predecease the member, the member may, in writing on forms prescribed by the board and subject to approval by the board, revoke Option A and thereafter receive during the member's lifetime a monthly retirement benefit commencing on the date on which the board approves such revocation, but not for any period prior to such approval, equal to the maximum monthly benefit which would have been payable to him had such option not been exercised;

(B) If there is entered a final judgment of complete divorce between the member and the member's spouse, the member may, in writing on forms prescribed by the board and subject to approval by the board, revoke Option A and thereafter receive during the



member's lifetime a monthly retirement benefit commencing on the date on which the board approves such revocation, but not for any period prior to such approval, equal to the maximum monthly benefit which would have been payable had such option not been exercised; and

(C) If, following the death of the member's spouse or the entry of a final judgment of divorce between the member and the member's spouse, the member remarries, the member may, in writing on forms prescribed by the board and subject to approval by the board, elect Option A with respect to the member's new spouse. The joint and survivor benefit shall be determined as of the date of the election.

(4) The amount of any optional retirement benefit set forth in this subsection shall be the actuarial equivalent of the amount of the benefit that would otherwise be payable to the member under subsection (b) or (c) of this Code section based upon the interest rate and mortality basis approved from time to time by the board, the age of the member, and, if applicable, the age of his spouse as of the date benefits are to commence or as of the date benefits would have commenced if the member had retired after first becoming eligible for full benefits, whichever is earlier, but the optional benefits available under Option A shall be calculated without regard to the provisions of paragraph (3) of this subsection.

(e)(1) Any eligible member who retires after July 1, 1984, shall be entitled to an increase in the maximum monthly retirement benefit in effect at the time of his or her retirement under this Code section equal to 1 percent of the monthly retirement benefit for which the member would have been otherwise eligible for each full year of creditable service while a member of the fund as a firefighter or volunteer firefighter in excess of 25 years of creditable service.

(2) Any eligible member who retires after July 1, 2002, shall be entitled to an increase in the maximum monthly retirement benefit in effect at the time of his or her retirement under this Code section equal to 2 percent of the monthly retirement benefit for which the member would have been otherwise eligible for each full year of creditable service while a member of the fund as a firefighter or volunteer firefighter in excess of 25 years of creditable service. Such increase shall be the total increase allowed by this subsection.

(f) Any eligible member who would be entitled to the commencement of retirement benefits upon reaching age 55 under subsection (b) or (c) of this Code section may elect to retire after reaching the age of 50 but before reaching the age of 55 and immediately commence the drawing of retirement benefits and in that event the member shall be eligible



immediately upon retirement for a reduced monthly pension benefit in an amount determined by multiplying the benefit for which the member would have been otherwise entitled under subsections (b), (c), and (e) of this Code section had the member delayed retirement or the commencement of benefits until the member reached age 55, such benefit to be determined as of the date of the member's actual retirement or first receipt of the monthly retirement benefit by the factor set forth below:

If the Member's Age At Retirement (determined by the member's age at the member's immediately preceding birthday) Is:	The Early Retirement Factor Is:
50	.70
51	.76
52	.82
53	.88
54	.94

The option available under this subsection may also be exercised by a surviving spouse who is the beneficiary of an Option A election with respect to the benefits payable to the spouse in the event the member dies prior to receiving any benefits and would have been able to exercise the option available under this subsection.

(g)(1) Effective July 1, 1988, the maximum monthly retirement benefit for any person who retires on or after that date shall be \$500.00.

(2) Effective July 1, 1988, the maximum monthly retirement benefit which was payable under this Code section immediately prior to that date shall be increased in the amount of \$85.00 per month, and the monthly retirement benefit of each person who retired under this chapter prior to that date or the monthly benefit of any surviving spouse or selected beneficiary who was receiving a benefit prior to that date shall be increased by a percentage of \$85.00 which is equal to the percentage that the retired person's, surviving spouse's, or selected beneficiary's monthly benefit payable immediately prior to July 1, 1988, bore to the maximum monthly benefit payable under this Code section immediately prior to July 1, 1988.

(3) Effective July 1, 1990, the monthly retirement benefit for any person who retires on or after that date under this Code section shall be \$570.00.

(4) Effective July 1, 1990, the maximum monthly retirement benefit which would otherwise be payable to persons retired under this Code section prior to July 1, 1990, shall be increased by the



amount of \$40.00 per month, and the monthly retirement benefit of each person who retired under this chapter prior to that date or the monthly benefit of any surviving spouse or selected beneficiary who was receiving a benefit prior to that date shall be increased by a percentage of \$40.00 which is equal to the percentage that the retired person's, surviving spouse's, or selected beneficiary's monthly benefit payable immediately prior to July 1, 1990, bore to the maximum monthly benefit otherwise payable to such person under this Code section prior to July 1, 1990.

(5) Effective July 1, 2000, the monthly benefit for any member who retired on or before February 25, 1976, under subsection (b) of this Code section shall be no less than \$500.00. The monthly benefit of any member retiring on or before such date under a retirement option providing for less than a full service pension, or the beneficiary of any such member, shall be calculated on an amount not less than \$500.00.

(h)(1) If any member who has not elected an option under subsection (d) of this Code section dies after accruing at least 15 years of creditable service but before applying for retirement as provided in this Code section, and such member is survived by a spouse, the surviving spouse shall be entitled to receive a benefit as if the member had elected to receive 100 percent of the member's benefits under Option A as provided in paragraph (1) of subsection (d) of this Code section. Such benefits shall commence on the date the deceased member would have reached the age of 55 years or, at the option of the surviving spouse, on the date the deceased member would have reached the age of 50 years in accordance with the provisions of subsection (f) of this Code section.

(2) If any member who has not elected an option under subsection (d) of this Code section dies after accruing at least 15 years of creditable service but before applying for retirement as provided in this Code section, and such member is not survived by a spouse, up to five selected beneficiaries shall be entitled to receive a benefit, equally apportioned among the selected beneficiaries, as if the member had elected to receive Option B as provided in paragraph (2) of subsection (d) of this Code section.

(3) If any member who has elected an option under subsection (d) of this Code section dies after accruing at least 15 years of creditable service but before applying for retirement as provided for in this Code section, the benefits shall be paid in accordance with the option so elected. (Ga. L. 1955, p. 339, § 7; Ga. L. 1957, p. 323, § 1; Ga. L. 1960, p. 991, § 1; Ga. L. 1966, p. 242, § 1; Ga. L. 1968, p. 441, § 4; Ga. L. 1970, p. 334, § 1; Ga. L. 1971, p. 332, § 1; Ga. L. 1973, p. 186, § 1; Ga. L. 1976, p. 235, § 1; Ga. L. 1979, p. 364, §§ 2, 3; Ga. L. 1981, p. 608, § 1; Ga. L. 1982, p. 3, § 47; Ga. L. 1984, p. 990, § 5; Ga. L. 1988,



p. 338, § 1; Ga. L. 1990, p. 554, § 1; Ga. L. 1991, p. 130, § 1; Ga. L. 1991, p. 755, § 9; Ga. L. 1992, p. 3010, § 1; Ga. L. 1993, p. 86, § 1; Ga. L. 1994, p. 703, § 4; Ga. L. 1997, p. 1376, § 1; Ga. L. 1998, p. 149, § 1; Ga. L. 2000, p. 562, §§ 6, 7; Ga. L. 2002, p. 590, § 2; Ga. L. 2010, p. 438, § 5/HB 1150; Ga. L. 2015, p. 898, § 10/HB 266.)

**The 2015 amendment**, effective July 1, 2015, in paragraph (d)(2), inserted “, or, if the member so elects, the total monthly benefit may be divided equally among up to five selected beneficiaries,”; and in paragraph (h)(2), substituted “up to five

selected beneficiaries shall be entitled to receive a benefit, equally apportioned among the selected beneficiaries,” for “the selected beneficiary shall be entitled to receive a benefit”.

**47-7-103. Benefits payable to a named beneficiary upon death of active member before benefits have commenced or before benefits equal to active member’s dues have been paid; benefits payable upon death of retired member before benefits have commenced or before benefits equal to the retired member’s dues have been paid.**

(a) In the event of the death of an active member who has not commenced receiving any benefits under this chapter, up to five selected beneficiaries of such deceased member shall be entitled to be paid the amount of \$5,000.00 split equally among the selected beneficiaries, upon any selected beneficiary making proper application to the executive director of the fund. Such application shall be accompanied by a certified copy of the death certificate of the deceased member and such other information as may be required by the board.

(b) In the event of the death of a retired member of the fund who has not elected survivor benefits under Option A or B as provided for in subsection (d) of Code Section 47-7-100 and who has commenced receiving benefits under this chapter, but who has not received total benefits in an amount equal to \$5,000.00, up to five beneficiaries selected by the member shall be entitled to receive an equally apportioned amount from the difference between \$5,000.00 and the amount of benefits received by such deceased member, upon making application as provided for in subsection (a) of this Code section. (Ga. L. 1956, p. 368, § 6; Ga. L. 1962, p. 550, § 1; Ga. L. 2000, p. 562, § 9; Ga. L. 2010, p. 438, § 6/HB 1150; Ga. L. 2015, p. 898, § 11/HB 266.)

**The 2015 amendment**, effective July 1, 2015, substituted the present provisions of this Code section for the former provisions, which read: “(a) In the event of the death of a member of the fund who is in good standing and who has not commenced receiving any benefits under this

chapter, the designated beneficiary of such deceased member shall be entitled to be paid the amount of \$5,000.00, upon making proper application to the executive director of the fund. Such application shall be accompanied by a certified copy of the death certificate of the deceased mem-



ber and such other information as may be required by the board.

“(b) In the event of the death of a member of the fund who is in good standing, who has not elected survivor benefits under Option A or B as provided for in subsection (d) of Code Section 47-7-100, and who has commenced receiving benefits under this chapter, but who has not

received total benefits in an amount equal to \$5,000.00, the member's named beneficiary shall be entitled to receive the difference between \$5,000.00 and the amount of benefits received by such deceased member, upon making application as provided for in subsection (a) of this Code section.”

## ARTICLE 7

### MISCELLANEOUS PROVISIONS

#### **47-7-126. Penalty for false statements or falsified records; correction of errors by the board.**

(a) Any person who knowingly makes any false statements or falsifies or permits to be falsified any records of the fund in an attempt to defraud the fund shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine not to exceed \$2,000.00, imprisonment for up to 12 months, or both.

(b) On and after July 1, 2015, if the board finds, after notice and opportunity for a hearing conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” that any person on or after July 1, 2015, has knowingly:

(1) Made a material false statement or falsified or permitted to be falsified any records of the fund or documents of the fund in an attempt to defraud the fund;

(2) Obtained or continued membership in the fund while not eligible to become or remain a member of the fund;

(3) Obtained benefits that he or she is not entitled to receive; or

(4) Obtained benefits in an amount greater than he or she is entitled to receive,

the board may order that such person shall forfeit all rights and benefits that he or she may be entitled to under the fund. Any person who is aggrieved or adversely affected by a final action of the board under this subsection shall have the right of judicial review in the superior courts.

(c) If any change or error in the records of the fund results in any member or beneficiary receiving from it more or less than such member or beneficiary would have been entitled to receive had the records been correct, the board shall have the power to correct such error and to



adjust the payments as far as is practicable and in such manner that the actuarial equivalent of any additional benefit to which such member or beneficiary was correctly entitled shall be paid or in such manner that any excess payment shall be recovered. (Code 1981, § 47-7-126, enacted by Ga. L. 1991, p. 755, § 12; Ga. L. 1992, p. 477, § 1; Ga. L. 2015, p. 898, § 12/HB 266.)

The 2015 amendment, effective July 1, 2015, in subsection (a), inserted “of a high and aggravated nature” and substituted “\$2,000.00” for “\$500.00”; added present subsection (b); and redesignated former subsection (b) as present subsection (c).

47-7-127. “Alternative investments” defined; code of ethics.

OPINIONS OF THE ATTORNEY GENERAL

Five percent limitation on alternative investments for the Georgia Firefighters’ Pension Fund is to be based upon the assets’ aggregate historical cost. 2012 Op. Att’y Gen. No. 12-2.

CHAPTER 11

JUDGES OF THE PROBATE COURTS RETIREMENT FUND OF GEORGIA

Article 1		Sec.	
General Provisions			criminal and quasi-criminal fines and forfeited bonds; duty to record and report collection; penalties.
Sec.			
47-11-1.	Definitions.		
Article 2		Article 5	
Creation, Administration, and Management of the Assets of the Fund		Retirement Benefits and Refunds of Dues	
47-11-22.	Powers and duties of the board.	47-11-71.	Amount of retirement benefits; optional retirement benefits; manner in which persons not eligible for maximum benefits at retirement may become eligible.
Article 4			
Revenues Collected from Fines and Fees			
47-11-51.	Payment to fund of a portion of		

ARTICLE 1  
GENERAL PROVISIONS

47-11-1. Definitions.

As used in this chapter, the term:



(1) “Adjusted annual income” means the maximum income determined by application of paragraph (5) of Code Section 47-11-40.

(2) “Adjusted monthly income” means a sum equal to one-twelfth of the adjusted annual income.

(3) “Board” means the Board of Commissioners of the Judges of the Probate Courts Retirement Fund of Georgia.

(4) “Fund” means the Judges of the Probate Courts Retirement Fund of Georgia.

(5) “Member” means a member of the Judges of the Probate Courts Retirement Fund of Georgia. (Code 1981, § 47-11-1; Ga. L. 2014, p. 179, § 1/HB 601. )

**The 2014 amendment**, effective July 1, 2014, added paragraphs (1) and (2); and redesignated former paragraphs (1) through (3) as present paragraphs (3) through (5), respectively.

**Editor’s notes.** — This Code section was created as part of the Code revision and was thus enacted by Ga. L. 1981, Ex. Sess., p. 8.

## ARTICLE 2

### CREATION, ADMINISTRATION, AND MANAGEMENT OF THE ASSETS OF THE FUND

#### **47-11-22. Powers and duties of the board.**

(a) The board is granted the following powers and duties:

(1) To provide for the collection of all moneys provided in this chapter;

(2) To pay the administrative expenses of the board;

(3) To hear and decide all applications for retirement benefits under this chapter;

(4) To make payment of all retirement benefits that may be determined to be due under the terms of this chapter;

(5) To make all necessary rules and regulations, not inconsistent with the laws of the state, for its government and for the government of the employees of the board;

(6) To determine and fix rules of eligibility of persons to receive retirement benefits;

(7) To make refunds and repayments to persons who may be entitled to receive them; and

(8) To keep all records of its meetings.



(b) The board shall also have all powers necessary for the purpose of administering this chapter.

(c)(1) Subject to the terms and limitations of this subsection, the board of commissioners is authorized to adopt from time to time a method or methods of providing for increases in the maximum monthly retirement benefit payable under Article 5 of this chapter for persons theretofore or thereafter retiring under this chapter. Such method shall be based upon:

(A) The recommendation of the actuary of the board of commissioners;

(B) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(C) Such other factors as the board deems relevant.

Any such increase may be uniform or may vary in accordance with the time of retirement, length of service, age, nature of the retirement, or such other factors as the board of commissioners shall determine.

(2) Any provision of paragraph (1) of this subsection to the contrary notwithstanding, no benefit increase shall be awarded under this subsection greater than 1.5 percent in any six-month period. (Ga. L. 1958, p. 185, § 4; Ga. L. 1993, p. 801, § 1; Ga. L. 1994, p. 92, § 1; Ga. L. 2010, p. 1207, §§ 64, 66/SB 436; Ga. L. 2014, p. 179, § 2/HB 601.)

**The 2014 amendment**, effective July 1, 2014, substituted the present provisions of paragraph (c)(2) for the former provisions, which read: “Any provision of paragraph (1) of this subsection to the contrary notwithstanding, no member who receives an annual cost-of-living benefit increase pursuant to subsection (e) of Code Section 47-11-71 shall receive a benefit increase under this subsection greater than 1 percent of the maximum monthly

benefit then in effect; provided, however, that no such member shall receive any such increase unless the members not entitled to a benefit increase under subsection (e) of Code Section 47-11-71 receive a like amount plus an additional increase of 2 percent of the maximum benefit then in effect; provided, further, that no benefit increase shall be awarded under this subsection greater than 1.5 percent in any six-month period.”



## ARTICLE 4

## REVENUES COLLECTED FROM FINES AND FEES

**47-11-51. Payment to fund of a portion of criminal and quasi-criminal fines and forfeited bonds; duty to record and report collection; penalties.**

(a) In every criminal and quasi-criminal case for violating state statutes or traffic laws which is before a judge of the probate court and in which case a fine is collected or a bond is forfeited, \$3.00 shall be collected by the judge, clerk of court, or other collecting authority. Such bond or fine shall be construed to include costs.

(b) The sum provided for shall be paid to the board before the payment of any cost or any claims whatsoever against such fine or forfeiture. It is made the duty of the judge of the probate court or other authority collecting the money to keep accurate records of the amount due the board so that the same may be audited or inspected at any time by any representative of the board at the direction of the board. Sums remitted to the board under this Code section shall be used as provided for elsewhere in this chapter.

(c)(1) All moneys required to be paid to the board by this Code section shall be due on the twentieth day of the month after collection. Each judge of the probate court, clerk of court, or other collecting authority shall pay such moneys to the board no later than such due date and shall submit with such moneys a sworn statement of the number and nature of transactions for which such moneys are required to be paid and the amount due. Such sworn statement shall be on a form furnished to each judge of the probate court by the board.

(2) Moneys not paid when due shall bear interest at the rate of 7 percent per annum.

(3) Moneys not paid within 60 days of the date they are due shall be delinquent. There shall be imposed on delinquent funds a specific penalty in the amount of 5 percent of the principal amount delinquent per month for each month such moneys remain delinquent; but such specific penalty shall not exceed 25 percent of the principal amount due. Such specific penalty shall be in addition to the 7 percent per annum interest charged on overdue moneys.

(4) For failure to file the written report of transactions and amount due when due, there shall be imposed a specific penalty in the amount of \$5.00 for each month such report remains overdue; but such specific penalty shall not exceed \$50.00 for failure to file any one report.



(5) By affirmative vote of all the members, the board, upon the payment of all overdue funds and interest and for good cause shown, may waive the specific penalties provided by paragraphs (3) and (4) of this subsection. (Ga. L. 1958, p. 185, § 16; Ga. L. 1959, p. 354, § 6; Ga. L. 1980, p. 1321, § 2; Ga. L. 1986, p. 1494, § 2; Ga. L. 2012, p. 677, § 1/HB 351.)

**The 2012 amendment**, effective July 1, 2012, in subsection (a), substituted the present provisions of subsection (a) for the former provisions, which read: "In every criminal and quasi-criminal case for violating state statutes or traffic laws, which case is before a judge of the probate court and in which case a fine is collected or a bond is forfeited, a sum based upon the scale set out below for each case shall be collected by the judge or other collecting authority. Such bond or fine shall be construed to include costs. Such sums shall be paid upon the following scale:

"For any fine or bond forfeiture of more than \$4.00, but not more than \$25.00  
....\$ 1.00

"For any fine or bond forfeiture of more than \$25.00, but not more than \$50.00  
....\$ 1.50

"For any fine or bond forfeiture of more than \$50.00, but not more than \$100.00  
....\$ 2.00

"For any fine or bond forfeiture of more than \$100.00 ....\$ 2.50"; in paragraph (c)(1), inserted "clerk of court" in the second sentence; and, in paragraph (c)(3), deleted the former last sentence, which read: "All funds due on or before July 10, 1980, shall be delinquent 60 days after such date."

## ARTICLE 5

### RETIREMENT BENEFITS AND REFUNDS OF DUES

#### **47-11-71. Amount of retirement benefits; optional retirement benefits; manner in which persons not eligible for maximum benefits at retirement may become eligible.**

(a)(1) Any judge of the probate court or employee of the board who is approved for retirement benefits as provided in subsection (a) of Code Section 47-11-70 prior to July 1, 1996, shall be paid a monthly sum equal to 5 percent of the judge's or employee's average monthly net earnings, as may be determined from reports of such earnings and subject to the limitations on such earnings as provided for in Code Section 47-11-40, for each year served by the judge or employee up to, but not exceeding, a total of 20 years, except as provided in subsection (c) of this Code section. No time prior to December 22, 1953, or for which dues have not been paid in accordance with Code Section 47-11-40 shall be considered in determining the number of years of service of any such judge of the probate court for purposes of determining retirement pay and no time prior to January 1, 1990, or for which dues have not been paid in accordance with Code Section 47-11-40 shall be considered in determining the number of years of service of any such employee of the board for purposes of determining retirement pay.



(2) Any judge of the probate court or employee of the board who is approved for retirement benefits as provided in subsection (a) of Code Section 47-11-70 on or after July 1, 1996, shall be paid a monthly sum equal to 5 percent of the judge's or employee's final monthly net earnings, as may be determined from reports of such earnings and subject to the limitations on such earnings as provided for in subparagraph (G) of paragraph (5) of Code Section 47-11-40, for each year served by the judge or employee up to, but not exceeding, a total of 20 years. No time for which dues have not been paid in accordance with Code Section 47-11-40 shall be considered in determining the number of years of service.

(b)(1) In lieu of receiving the retirement benefits provided for in subsection (a) of this Code section, a judge of the probate court or employee of the board may elect in writing, on a form to be provided by the board at the time the judge or employee becomes eligible to receive retirement benefits, to receive a monthly retirement benefit payable up to the date of the death of the designated survivor, which benefit shall be based on the judge's or employee's age at retirement and the age of the judge's or employee's designated survivor at that time and shall be computed so as to be actuarially equivalent to the total retirement payment which would have been paid to the judge or employee under subsection (a) of this Code section. A member who is unmarried at the time of such election may designate a survivor at the time of making such election. If a member is married at the time of such election, his or her spouse shall be the designated survivor unless another person is so designated with the written agreement of the spouse. In any event, the designated survivor shall be a person with whom the member has a familial relationship through blood, marriage, or adoption. Such actuarial equivalent shall be computed on the Group Annuity Table for 1951 using 5 1/2 percent interest. The spouse designated at the time of the judge's or employee's retirement shall be the only spouse who may draw these benefits.

(2) If a member elects the option provided in paragraph (1) of this subsection, then, after the approval of the application for retirement, the following provisions apply:

(A) If the member's designated survivor shall predecease the member, the member may, in writing on forms prescribed by the board and subject to approval by the board, revoke such option and thereafter receive during the member's lifetime a monthly retirement benefit commencing on the date on which the board approves such revocation, but not for any period prior to such approval, equal to the maximum monthly benefit which would have been payable to him had such option not been exercised;

(B) If there is entered a final judgment of complete divorce between the member and the member's spouse who is the desig-



nated survivor, the member may, in writing on forms prescribed by the board and subject to approval by the board, revoke such option and thereafter receive during the member's lifetime a monthly retirement benefit commencing on the date on which the board approves such revocation, but not for any period prior to such approval, equal to the maximum monthly benefit which would have been payable had such option not been exercised; and

(C) If, following the death of the member's spouse or the entry of a final judgment of divorce between the member and the member's spouse who is the designated survivor, the member remarries, the member may, in writing on forms prescribed by the board and subject to approval by the board, elect such option with respect to the member's new spouse. The joint and survivor benefit shall be determined as of the date of the election. No such election shall be made until the expiration of one year after the date of remarriage or until a child of the remarried couple is born, whichever is earlier.

(c) Any provision of this chapter to the contrary notwithstanding, any judge of the probate court, employee of the board, and any secretary-treasurer of the fund who has served for a total of 20 years as judge of the probate court, employee of the board, or secretary-treasurer, or a combination of such service, and who has contributed all dues owed to the fund as provided in this chapter but who is not eligible upon retirement to receive the maximum retirement benefits provided for in this chapter shall be entitled to continue to contribute dues to the fund or, in the case of the secretary-treasurer, to continue to receive credit during such period of time as the judge, employee, or secretary-treasurer shall continue to serve as a judge of the probate court, employee of the board, or secretary-treasurer beyond 20 years of service. The average monthly net earnings of any such judge of the probate court, employee of the board, or secretary-treasurer retiring prior to July 1, 1996, shall be added to the total monthly net earnings of such judge of the probate court, employee of the board, or secretary-treasurer during the 20 year period of service. The sum of these two amounts shall then be divided by 240, and the result of such division shall then be used as the average monthly net earnings upon which retirement benefits shall be calculated; provided, however, such average monthly net earnings shall not exceed the limitations specified in subsection (b) of Code Section 47-11-21 and in Code Section 47-11-40.

(d) The calculation of benefits under this Code section shall apply to persons who were receiving benefits pursuant to the provisions of this chapter prior to July 1, 1988, as well as to persons who become eligible to receive benefits on or after that date. Effective July 1, 1988, the monthly benefit of each person who was receiving a benefit prior to that date shall be increased in the amount necessary to comply with the



requirements of this subsection. (Ga. L. 1958, p. 185, § 10; Ga. L. 1959, p. 354, § 4; Ga. L. 1968, p. 548, § 8; Ga. L. 1972, p. 421, § 1; Ga. L. 1976, p. 754, §§ 1, 5; Ga. L. 1979, p. 595, §§ 3, 4; Ga. L. 1982, p. 3, § 47; Ga. L. 1986, p. 1249, § 1; Ga. L. 1988, p. 630, § 2; Ga. L. 1992, p. 1037, § 4; Ga. L. 1992, p. 2147, § 1; Ga. L. 1996, p. 114, § 1; Ga. L. 1996, p. 300, § 1; Ga. L. 1998, p. 166, § 3; Ga. L. 2000, p. 1278, § 4; Ga. L. 2006, p. 229, § 1/HB 251; Ga. L. 2014, p. 179, § 3/HB 601.)

**The 2014 amendment**, effective July 1, 2014, deleted former subsection (e), which read: “Any other provision of law to the contrary notwithstanding, additional retirement benefits shall be paid to each person, including a surviving spouse, who was receiving benefits under this chapter on January 1, 1993, or who became entitled to receive benefits on or after January 1, 1993. Such additional benefits shall be annual cost-of-living benefits equal to the benefit a member would otherwise be entitled to receive as calculated pursuant to subsections (a) through (d) of this Code section and any benefits previously re-

ceived as authorized by this subsection multiplied by the percentage of any increase in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all items and major groups, United States city average, for the immediately preceding calendar year; provided, however, that such annual percentage increase in benefits shall not exceed 2 percent regardless of the percentage increase in the Consumer Price Index. In any year in which there is no percentage increase in such Consumer Price Index, no additional retirement benefits shall be paid under this subsection.”

CHAPTER 14

SUPERIOR COURT CLERKS' RETIREMENT FUND OF  
GEORGIA

Article 5

Retirement Benefits, Disability  
Benefits, and Spouses'  
Benefits

Sec.

fits; additional or partial re-  
tirement benefits; election of  
spousal benefits.

Sec.  
47-14-70. Eligibility for retirement bene-

ARTICLE 5

RETIREMENT BENEFITS, DISABILITY BENEFITS,  
AND SPOUSES' BENEFITS

47-14-70. Eligibility for retirement benefits; additional or par-  
tial retirement benefits; election of spousal benefits.

(a) A member with at least 20 years of service shall receive retire-  
ment benefits of \$1,700.00 per month upon retirement, provided that at  
least 12 years of such service shall have been served as a clerk, and the



member must have served continuously as a clerk for the four years immediately preceding the member's retirement. Subject to the restrictions set out in this subsection, in computing such service, a member also may include service as a deputy clerk of the superior court and not more than four years of service as a member of the armed forces of the United States on active duty during any period of time in which the United States was engaged in an armed conflict, regardless of whether a state of war had been declared by Congress, provided that no service as a member of the armed forces of the United States shall be deemed as service for purposes of obtaining retirement benefits under this chapter if such service has or will be used in the determination of the member's eligibility for retirement benefits or allowances from any other state or federal retirement program, excluding social security. A clerk of the superior court may not include service for eligibility purposes for years in which the clerk has not completed the training requirements set out in paragraph (1) of subsection (c) of Code Section 15-6-50. No member who is subject to the provisions of Code Section 15-6-50 shall be entitled to include, for purposes of eligibility to receive a benefit under this chapter, service during which he or she was not in compliance with the training requirements of subsection (c) of such Code section.

(b) If a member is eligible to retire under subsection (a) of this Code section but does not retire and continues to serve as clerk, he or she shall be entitled to receive, upon retirement, the amount to which he or she would have been entitled under subsection (a) of this Code section; and, in addition, for each year of service beyond the required 20 years, he or she shall receive an additional 5 percent of the amount he or she would be entitled to under subsection (a) of this Code section.

(c)(1) In lieu of the retirement benefits provided in subsections (a) and (b) of this Code section, a member, upon retirement, may elect spousal benefits. If such election is made, then the amount of the benefits paid to the member shall be computed so as to be actuarially equivalent to the monthly retirement payment which would have been paid to the member under subsection (a) or (b) of this Code section, as applicable. Such actuarial equivalence shall be computed on the interest rate and mortality basis approved from time to time by the board, the age of the member, and, if applicable, the age of his or her spouse as of the date benefits are to commence. After the member's death, the member's surviving spouse shall receive a monthly sum during the lifetime of the surviving spouse equal to 50 percent of the amount which the member would have received had the member elected the full benefits provided under subsections (a) and (b) of this Code section. In order to be eligible for such benefits, the surviving spouse shall have been married to the member for at least six years immediately preceding the member's death. Such



benefits shall not commence until after the surviving spouse reaches 55 years of age.

(2) If a member elects spousal benefits under paragraph (1) of this subsection and subsequently the member's spouse predeceases the member or a final judgment of complete divorce between the member and the member's spouse is entered, the member may, in writing on forms prescribed by the board and subject to approval by the board, revoke the election for spousal benefits under paragraph (1) of this subsection and thereafter receive during the member's lifetime a monthly retirement benefit commencing on the first day of the month following the date on which the board approves such revocation, but not for any period prior to such date.

(d) A member with at least 16 years of service either as a clerk or deputy clerk shall receive retirement benefits of \$1,360.00 per month upon retirement, provided that at least eight years of such service shall have been served as a clerk, and the member must have served continuously as a clerk for the four years immediately preceding the member's retirement. No other type of service shall be counted toward such retirement benefits.

(e) A member with at least 12 years of service either as a clerk or deputy clerk shall receive retirement benefits of \$1,020.00 per month upon retirement, provided that at least eight years of such service shall have been served as a clerk, and the member must have served continuously as a clerk for the four years immediately preceding the member's retirement. No other type of service shall be counted toward such retirement benefits.

(f) Any other provisions of this chapter to the contrary notwithstanding, all members who retire on or after April 1, 1976, for whatever reason and who otherwise meet the requirements for retirement benefits under either subsection (d) or (e) of this Code section shall be entitled to an additional benefit based on service in excess of the minimum required for such retirement benefits, provided that such service is of the kind for which credit toward retirement benefits would be given under subsection (d) or (e) of this Code section. The amount of the retirement benefit shall be based on the ratio that the total number of years served bears to the minimum number of years required for benefits under subsection (d) or (e) of this Code section, as appropriate. For example, the following table is illustrative of the additional benefits computation under this Code section:

<u>Years of Service at Retirement</u>	<u>Benefits Received</u>
13	Thirteen-twelfths of the benefits provided in subsection (e) of this Code section



<u>Years of Service at Retirement</u>	<u>Benefits Received</u>
14	Fourteen-twelfths of the benefits provided in subsection (e) of this Code section
15	Fifteen-twelfths of the benefits provided in subsection (e) of this Code section
17	Seventeen-sixteenths of the benefits provided in subsection (d) of this Code section
18	Eighteen-sixteenths of the benefits provided in subsection (d) of this Code section
19	Nineteen-sixteenths of the benefits provided in subsection (d) of this Code section

(g) No person shall receive credit toward the retirement benefits set forth in subsections (a) and (b) of this Code section for any service performed after February 15, 1952, unless payment for the period covered by such service has been made to the board. No person shall be eligible for the benefits provided in this Code section unless his or her official duties have terminated and he or she files an application for benefits within 90 days, or as soon thereafter as possible, from the termination of his or her official duties. (Ga. L. 1952, p. 230, § 9; Ga. L. 1964, p. 202, §§ 2, 3; Ga. L. 1968, p. 420, § 1; Ga. L. 1971, p. 228, §§ 1, 2; Ga. L. 1972, p. 352, § 2; Ga. L. 1974, p. 1183, § 1; Ga. L. 1976, p. 729, §§ 2, 4, 5, 8; Ga. L. 1978, p. 2069, §§ 1, 3, 4; Ga. L. 1980, p. 1547, § 2; Ga. L. 1981, p. 857, §§ 2, 4, 5; Ga. L. 1981, p. 921, § 4; Ga. L. 1982, p. 3, § 47; Ga. L. 1983, p. 555, § 2; Ga. L. 1986, p. 30, § 1; Ga. L. 1986, p. 1252, § 1; Ga. L. 1988, p. 626, § 1; Ga. L. 1990, p. 1270, § 1; Ga. L. 1994, p. 1811, § 1; Ga. L. 1998, p. 158, § 4; Ga. L. 2002, p. 470, § 6; Ga. L. 2014, p. 178, § 1/HB 580.)

**The 2014 amendment**, effective July 1, 2014, substituted the present provisions of subsection (c) for the former provisions, which read: “In lieu of the retirement benefits provided in subsections (a) and (b) of this Code section, a member, upon retirement, may elect to receive 90 percent of the benefits the member is entitled to receive under subsections (a) and (b) of this Code section during the remainder of the member’s life; and, after

the member’s death, the member’s surviving spouse shall receive a monthly sum during the lifetime of the surviving spouse equal to 50 percent of the amount which the member would have received had the member elected the full benefits provided under subsections (a) and (b) of this Code section. In order to be eligible for such benefits, the surviving spouse must have been married to the member for at least six years immediately preceding the mem-



ber’s death. Such benefits shall not commence until after the surviving spouse reaches 55 years of age.”

CHAPTER 16

SHERIFFS' RETIREMENT FUND OF GEORGIA

Article 6		Sec.
Retirement Benefits and Death Benefits		failure of member to select an option; effect of changes in retirement benefits and options; change of option after receipt of payments.
Sec.		
47-16-101.	Retirement benefit options;	

ARTICLE 6

RETIREMENT BENEFITS AND DEATH BENEFITS

**47-16-101. Retirement benefit options; failure of member to select an option; effect of changes in retirement benefits and options; change of option after receipt of payments.**

(a) At the time a member becomes eligible for retirement benefits, he or she shall choose one of three payment options for retirement benefits. The member must indicate his or her choice of payment options upon the application for retirement benefits filed with the secretary-treasurer. Upon approval of the member’s application by the board, such member shall be paid retirement benefits in the form of a monthly sum of money determined in accordance with the option he or she has selected. The three payment options are as follows:

(1) Option One shall be known as a “single life annuity” and shall provide retirement benefits for the life of the member only. If the member has no more than four years of service credited to such member under this chapter, the member shall be paid a benefit of \$380.00 per month until the member’s death. If the member has more than four years credited to such member under the provisions of this chapter, such member shall be paid a benefit of \$380.00 per month, plus \$95.00 per month for each additional year of service so credited to the member. If the member has additional service credit not totaling a full year, the further sum of one-twelfth of the amount paid per month for each additional year of service credit over four years shall be paid for each month of additional service so credited to the member; provided, however, that in no case shall such benefits exceed



\$2,850.00 per month; provided, further, that the board of commissioners shall be authorized to increase such benefits by an amount not to exceed 3 percent per annum based on the following factors:

(A) The recommendation of the actuary of the board of commissioners;

(B) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(C) Such other factors as the board deems relevant.

Any such increase may be uniform or may vary in accordance with the time of retirement, length of service, age, nature of the retirement, or such other factors as the board of commissioners shall determine; provided, however, that no such increase shall be made to become effective within six months of the effective date of any increase in the maximum retirement benefit granted by the General Assembly through amendment of this Code section;

(2) Option Two shall be known as a “100 percent joint life annuity” and shall provide retirement benefits for the life of either the member or his or her spouse, whichever is the survivor. The monthly amount to be paid under this option shall be based on the member’s age and that of his or her spouse at the member’s retirement and shall be the actuarial equivalent of the monthly retirement payment which would have been paid to the member under Option One. Actuarial equivalents shall be computed using a current and accurate mortality table adopted by the board; and

(3) Option Three shall be known as the “50 percent contingency life annuity” and shall provide for payment of a 50 percent benefit for the life of the surviving spouse. The amount to be paid under this option shall be based on the member’s age and that of his or her spouse at the member’s retirement and shall be computed so as to be actuarially equivalent to the monthly benefit which would have been paid to the member under Option One. Actuarial equivalents shall be computed using a current and accurate mortality table adopted by the board. When a retired member has elected Option Two or Option Three, in the event the spouse predeceases the retired member, the monthly retirement benefit payable to the retired member after the death of the spouse shall be increased to the monthly retirement benefit which the retired member would have been entitled to receive under Option One. In the event any such retired member remarries or has remarried after the death of the former spouse, the retired member may elect to begin receiving the applicable reduced retirement benefit of equivalent actuarial value and reestablish on behalf of the new spouse the same option which was applicable to the



deceased former spouse, but such option on behalf of the new spouse may not be reestablished until one year after the date of remarriage or until a child of the remarried couple is born, whichever is earlier. Such actuarial equivalence shall be based on the age of the retired member and the age of the retired member's new spouse at the time of such election and shall be computed on the Mortality Table GA51, with projection, using interest at 6 percent per annum, with a five-year age setback for females and monthly payment annuity functions.

(b)(1) Benefits payable to the spouse of a deceased member shall be payable for only so long as such spouse remains the widow or widower of such deceased member and, should such spouse remarry, any benefits payable to such spouse shall cease as of the date of remarriage.

(2) At any time after the entry of a final judgment of divorce, a retired member receiving benefits under either Option Two or Option Three may continue receiving benefits under the option so chosen for the benefit of the former spouse or may revoke the election. In the event the retired member revokes the election, the retired member shall begin receiving the monthly retirement benefit which the retired member would have been entitled to receive under Option One. Benefits paid under Option One to a retired member following such revocation shall not be retroactive. In the event that the retired member remarries after divorce from the former spouse and the member elected to revoke Option Two or Option Three as provided in this paragraph, the retired member may elect to begin receiving reduced monthly retirement benefits of actuarial equivalence under either Option Two or Option Three. Such actuarial equivalence shall be based on the age of the retired member and the age of the retired member's new spouse at the time of such election and shall be computed on the Mortality Table GA5 1, with projection, using interest at 6 percent per annum, with a five-year age setback for females and monthly payment annuity functions.

(c) Any provisions of this chapter to the contrary notwithstanding, \$20.00 shall be deducted from the monthly retirement benefits of the member or the monthly retirement benefits under Option Two or Three to the spouse of the member when the member has been credited with any period of service under this chapter which was performed prior to January 1, 1961, and for which dues shall not have been paid by the member, until a total sum of \$20.00 for every month of service prior to January 1, 1961, so credited to the member shall have been withheld, or until dues have been paid or withheld for a maximum of 25 years, or until the death of the member and his or her spouse who is receiving benefits, whichever may occur first.



(d) In the event any member with a spouse then living is unable to choose one of the three option payments, to complete and file an application for retirement benefits with the secretary-treasurer, or to obtain the approval of the board because of his or her death, mental incompetency, or other providential cause, but the member is otherwise eligible to receive retirement benefits except for his or her having been prevented, Option Two shall be effective, and retirement benefits shall be paid in accordance with that option.

(e) The options under this Code section and the increase in the amounts to be paid as retirement benefits pursuant to said options shall become effective and apply from and after May 1, 1979. Those members and persons already receiving retirement benefits which were computed and determined at a time when the options were not available shall not be afforded an opportunity to select an option but shall have their retirement benefits recomputed and determined in accordance with the provisions of Option One, and the increase in benefits shall be paid to such members or persons from and after May 1, 1979. For those members or persons eligible to receive retirement benefits from and after May 1, 1979, their service shall be computed and determined in accordance with the increased retirement benefits in this Code section in accordance with the member's option selected in accordance with the provisions of this Code section and according to the number of years of creditable service credited to such member or person under this Code section, and such member shall be paid the retirement benefits so determined from and after May 1, 1979. For those members or persons already receiving retirement benefits, such members or persons shall be entitled to have their retirement benefits recomputed and determined in accordance with this Code section, and the increase in benefits according to their years of creditable service shall be paid to such members and persons from and after May 1, 1979.

(f) No member shall be allowed to change the retirement options provided in this Code section subsequent to the time that such member receives the first payment under the retirement option originally selected by such member. (Ga. L. 1963, p. 630, § 18; Ga. L. 1972, p. 705, § 4; Ga. L. 1973, p. 1414, § 1; Ga. L. 1974, p. 1194, § 1; Ga. L. 1976, p. 332, §§ 1, 2; Ga. L. 1977, p. 1291, § 1; Ga. L. 1978, p. 1690, §§ 1, 2; Ga. L. 1979, p. 994, §§ 1, 2; Ga. L. 1981, p. 1853, § 1; Ga. L. 1981, p. 1889, § 2; Ga. L. 1983, p. 1185, § 5; Ga. L. 1985, p. 1348, § 1; Ga. L. 1986, p. 604, § 2; Ga. L. 1988, p. 1566, §§ 2, 3; Ga. L. 1990, p. 553, § 1; Ga. L. 1991, p. 130, § 1; Ga. L. 1993, p. 608, § 2; Ga. L. 1994, p. 92, § 1; Ga. L. 1994, p. 325, § 4; Ga. L. 1995, p. 789, § 1; Ga. L. 1996, p. 375, § 1; Ga. L. 1998, p. 155, § 1; Ga. L. 2000, p. 1167, § 2; Ga. L. 2010, p. 1207, §§ 64, 66/SB 436; Ga. L. 2012, p. 675, § 1/HB 337.)



The 2012 amendment, effective July 1, 2012, designated the existing provisions of subsection (b) as paragraph (b)(1); and added paragraph (b)(2).

CHAPTER 17

PEACE OFFICERS' ANNUITY AND BENEFIT FUND

Article 1

General Provisions

Sec.  
47-17-1. Definitions.

Article 2

Administration and Management of  
the Assets of the Fund

47-17-27. Board authorized to employ hearing officer; powers and duties of hearing officer; appeal.

Article 6

Retirement Benefits and  
Disability Benefits

Sec.  
47-17-81. Eligibility for disability benefits; periodic medical examination; termination of disability benefits; application; hearings.

Article 7

Miscellaneous Provisions

47-17-105. Member's obligation to notify board of employment change.

OPINIONS OF THE ATTORNEY GENERAL

**Eligibility of investigators employed by Georgia Forestry Commission and Department of Agriculture.** — Investigators at issue who are employed by the Georgia Forestry Commission and by the Georgia Department of Agriculture do not meet the definition of peace officer in O.C.G.A. 47-17-1(5)(A) as that definition has been interpreted by the Georgia Supreme Court and that the investigators therefore are not eligible for membership in the Peace Officers Annuity Board Fund. Although it is clear that

these investigators perform important functions for the citizens of this State, the investigators' specific missions do not meet the criteria established by the General Assembly, as interpreted by the Georgia Supreme Court, for membership in this supplemental retirement fund. This conclusion, of course, in no way limits their status as members of the Employees Retirement System of Georgia, the primary pension fund for state employees. 2010 Op. Att'y Gen. No. 10-4.

ARTICLE 1

GENERAL PROVISIONS

47-17-1. Definitions.

As used in this chapter, the term:

(1) "Board" means the Board of Commissioners of the Peace Officers' Annuity and Benefit Fund.



(1.1) “Creditable service” means approved prior service plus membership service.

(2) “Fund” means the Peace Officers’ Annuity and Benefit Fund.

(3) “Income” means any and all income received by a peace officer for services rendered, whether such income is in the form of salary, fees, subsistence allowance or other type of allowance, or any combination thereof.

(4) “Member” means a member of the Peace Officers’ Annuity and Benefit Fund.

(4.1) “Membership service” means service which is rendered by an employee while he or she is a member of the fund and for which credit is allowable under this chapter.

(5) “Peace officer” means:

(A) Any peace officer who is employed by this state or any municipality, county, or other political subdivision thereof who is required by the terms of such peace officer’s employment, whether by election or appointment, to give such peace officer’s full time to the preservation of public order, the protection of life and property, or the detection of crime in this state or any municipality, county, or other political subdivision thereof and who is required by the terms of such peace officer’s employment to comply with the requirements of the “Georgia Peace Officer Standards and Training Act” contained in Chapter 8 of Title 35, provided that, for the purposes of this chapter, any deputy sheriff employed as such by a sheriff of this state shall be deemed to be employed by the county in which such sheriff serves;

(B) Any warden or correction officer of state or county correctional institutions and any warden or correction officer of municipal correctional institutions of a municipality having a population of 70,000 or more according to the United States decennial census of 1970 or any future such census who is required by the terms of his or her employment as such warden or correction officer to give his or her full time to his or her job as such warden or correction officer; and any warden or correction officer of a municipal correctional institution who on or before October 1, 1962, pays dues for prior service shall be deemed to have been a member for such periods and shall be entitled to all the rights and benefits to which other members during such periods are entitled, provided that any such warden or correction officer as provided in this subparagraph is required by the terms of his or her employment to comply with the requirements of the “Georgia Peace Officer Standards and Training Act” contained in Chapter 8 of Title 35;



(C) All employees of the Peace Officers' Annuity and Benefit Fund who are required by the terms of their employment to devote their full time to such job; and any such full-time employee who on or before October 1, 1962, paid dues for prior service shall be deemed to have been a member for such periods and shall be entitled to all the rights and benefits to which other members are entitled;

(D) Any parole officers who are required by the terms of their employment to devote full time to their job;

(E) Any law enforcement employee of the Alcohol and Tobacco Tax Unit of the Department of Revenue who is required by the terms of his or her employment to devote his or her full time to his or her job as a law enforcer, and any supervisor of such employees who, himself or herself, is assigned to the Alcohol and Tobacco Tax Unit and who is required by the terms of his or her employment to have arrest powers and to enforce the alcohol and tobacco tax laws;

(F) Any person employed by the Department of Transportation who is designated by the commissioner of transportation as an enforcement officer pursuant to Code Section 32-6-29, provided that such enforcement officers shall be entitled to creditable service toward retirement only for membership service rendered after April 5, 1978, and only for membership service which is rendered in such capacity prior to July 1, 2001;

(G) Any full-time identification technician or identification supervisor employed by this state, or any subdivision or municipality thereof, whose duties include the investigation and detection of crime or whose duties are supervisory over those identification technicians whose duties include the investigation and detection of crime in this state, and who has been considered a member of the Peace Officers' Annuity and Benefit Fund, and paid dues thereto, at any time on or before July 1, 1981; and such identification technicians and identification supervisors shall be deemed to have been members for such prior period of service that dues were paid and shall be entitled to all rights and benefits to which other members are entitled;

(H) Reserved;

(I) Persons in the categories listed below who are required, as a condition necessary to carry out their duties, to be certified as peace officers pursuant to the provisions of Chapter 8 of Title 35, known as the "Georgia Peace Officer Standards and Training Act":

(i) Persons employed by the Department of Juvenile Justice who have been designated by the commissioner of juvenile justice



to investigate and apprehend delinquent children or children in need of services who have escaped from an institution or facility or have broken their conditions of supervision; any employee of the Department of Juvenile Justice whose full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent children or children in need of services in its institutions, facilities, or programs or who is a line supervisor of any such employee, provided that the powers of a peace officer have been conferred upon such person pursuant to Chapter 4A of Title 49;

(ii) Narcotics agents retained by the director of the Georgia Bureau of Investigation pursuant to the provisions of Code Section 35-3-9;

(iii) Investigators employed by the Secretary of State as securities investigators pursuant to the provisions of Code Section 10-5-10;

(iv) Investigators employed by the Secretary of State as investigators for the professional licensing boards pursuant to the provisions of Code Section 43-1-5;

(v) Persons employed by the Department of Driver Services to whom the commissioner of driver services has delegated law enforcement powers; provided, however, that no such person shall be entitled to obtain any prior creditable service other than actual membership service; and

(vi) Persons employed by the Georgia Composite Medical Board as investigators pursuant to subsection (e) of Code Section 43-34-24.1;

(J) Any person who was a member of the fund pursuant to the definitions contained in subparagraphs (A) through (I) of this paragraph and who is subsequently promoted to a position of similar duties but broader supervisory duties, if such person's new position requires him or her to comply with the standards contained in Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act," and such person retains his or her powers of arrest; and

(K) Any employee of the Department of Corrections whose full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of inmates and detainees or who is a line supervisor of any such employee, provided that all such persons are required to comply with the requirements of Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act," in order to hold their



positions and in addition have been conferred with the powers of a police officer pursuant to Code Section 42-5-35.

(6) “Service,” as used to determine the amount of annuities or benefits due any beneficiary under this chapter, means the total number of years in the aggregate actually served by a peace officer, computed from the date such peace officer began his service as a peace officer. (Ga. L. 1950, p. 50, § 8; Ga. L. 1951, p. 472, § 2; Ga. L. 1956, p. 280, § 7; Ga. L. 1958, p. 341, § 3; Ga. L. 1962, p. 39, § 3; Ga. L. 1970, p. 199, § 1; Ga. L. 1973, p. 63, § 2; Ga. L. 1974, p. 1201, § 1; Ga. L. 1978, p. 1921, § 1; Ga. L. 1981, p. 710, § 1; Ga. L. 1982, p. 3, § 47; Ga. L. 1987, p. 1062, § 1; Ga. L. 1988, p. 1479, § 1; Ga. L. 1989, p. 228, § 1; Ga. L. 1990, p. 540, § 1; Ga. L. 1992, p. 477, § 1; Ga. L. 1992, p. 1983, § 23; Ga. L. 1994, p. 320, § 1; Ga. L. 1994, p. 776, §§ 1, 2; Ga. L. 1995, p. 27, § 1; Ga. L. 1996, p. 381, § 1; Ga. L. 1996, p. 950, § 8; Ga. L. 1997, p. 1453, §§ 1, 2; Ga. L. 1998, p. 165, § 1; Ga. L. 2000, p. 1449, § 9; Ga. L. 2000, p. 1706, § 19; Ga. L. 2002, p. 440, § 1; Ga. L. 2008, p. 145, § 1/HB 732; Ga. L. 2009, p. 368, § 1/SB 48; Ga. L. 2010, p. 1207, § 64/SB 436; Ga. L. 2014, p. 393, § 1/SB 339.)

**The 2014 amendment**, effective April 21, 2014, part of an Act to revise, modernize, and correct this title, in division (5)(I)(i), substituted “delinquent children

or children in need of services” for “delinquent and unruly children” twice, and deleted the comma following “programs”.

## ARTICLE 2

### ADMINISTRATION AND MANAGEMENT OF THE ASSETS OF THE FUND

#### 47-17-27. Board authorized to employ hearing officer; powers and duties of hearing officer; appeal.

- (a) The board is authorized and empowered to appoint and compensate a hearing officer for the purpose of holding hearings, compiling evidence and information, and submitting evidence, information, and recommendations to the board in any contested case.
- (b) The hearing officer shall have the authority to do the following in connection with any hearing: administer oaths and affirmations; sign and issue subpoenas; rule upon offers of proof; regulate the course of the hearing, set the time and place for the hearing or any continued hearings, and fix the time for filing any briefs; provide for the taking of testimony by deposition or interrogatory; and reprimand or exclude from the hearing any person for any indecorous or improper conduct committed in the presence of the hearing officer. When a subpoena issued by the hearing officer is disobeyed, any interested party may apply to the superior court of the county where the hearing is being held



for an order requiring obedience. Failure to comply with such order shall be cause for punishment as for contempt of court. Any applicant for disability benefits shall have the right to be represented by counsel before the hearing officer.

(c) With respect to all hearings before the hearing officer:

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in the trial of civil nonjury cases in the superior courts shall be followed. Evidence not admissible under such rules of evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law; and

(2) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. At the discretion of the hearing officer, the original shall be compared with the copy or excerpt.

(d) The hearing officer, within 30 days from the close of the evidence or, if necessary, a longer period of time approved by the board, shall certify the entire record from the hearing to the board, together with his or her recommendation on the application. On review of the entire record from the hearing officer, the board shall have all the powers it would have in presiding at the reception of the evidence. In its discretion, the board may take additional testimony or remand the matter to the hearing officer for such purpose. The recommendation of the hearing officer to the board shall be made a part of the record before the board.

(e) As a part of its decision subsequent to any hearing, the board shall include findings of fact and conclusions of law, separately stated, and the effective date of the decision. The decision of the board shall be mailed to the parties as soon after the rendition of the decision as is practicable.

(f) Any party who is adversely affected by any final decision of the board may seek judicial review of the final decision of the board in the Superior Court of Spalding County. Proceedings for review shall be instituted by filing a petition with the court within 30 days after the decision is rendered. A copy of the petition shall be served upon the board. The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is aggrieved by the decision of the hearing officer, and the grounds upon which the petitioner contends the decision should be reversed or remanded. The petition may be amended with leave of the court.

(g) Within 30 days after the service of the petition or within further time allowed by the court, the hearing officer shall transmit to the



reviewing court the original or a certified copy of the entire record of the proceeding under review. By agreement of the petitioner, the record may be shortened. The court may require or permit subsequent corrections or additions to the record.

(h) The filing of the petition shall in no manner stay the enforcement of the decision of the hearing officer.

(i) The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the hearing officer as to the weight of the evidence on questions of fact. The court may affirm the decision of the hearing officer or remand the case for further proceedings. The court may reverse the decision of the hearing officer if substantial rights of the petitioner have been prejudiced because the findings, inferences, conclusions, or decisions of the hearing officer are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the hearing officer;
- (3) Made upon unlawful procedure;
- (4) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (5) Arbitrary or capricious.

(j) A petitioner who is aggrieved by an order of the court in a proceeding authorized under this Code section may appeal to the Supreme Court of Georgia or the Court of Appeals of Georgia in accordance with Title 5. (Code 1981, § 47-17-27, enacted by Ga. L. 2012, p. 769, § 1/HB 928.)

**Effective date.** — This Code section became effective July 1, 2012.

## ARTICLE 6

### RETIREMENT BENEFITS AND DISABILITY BENEFITS

#### **47-17-81. Eligibility for disability benefits; periodic medical examination; termination of disability benefits; application; hearings.**

(a) Any dues-paying member who became a member prior to July 1, 1993, who is rendered totally and permanently disabled by disease or injury so as to be unable to perform substantially all of the duties of the position to which the member was regularly assigned when the disability originated or so as to be unable to engage in any occupation or gainful employment for which the member is reasonably suited by



virtue of the member's background, training, education, and experience shall be entitled to disability benefits of \$257.00 per month for life or until the member's disability ceases, provided that the member makes application to the board for disability benefits within 12 months of becoming totally and permanently disabled.

(b) The disability benefits provided under this Code section shall be payable upon the event of disability as provided in subsection (a) of this Code section regardless of the cause of the disability and shall be payable when the disability is a result of any mental or physical injury or disease, whether caused by reason of the peace officer's employment or not, provided that no benefits shall be payable under this Code section for any disability resulting from the chronic and excessive consumption of alcoholic beverages, addiction to drugs, the use of which is prohibited in this state by law, engagement by the member in any criminal act, willful misconduct of the member, or injury sustained by the member while serving in the armed forces of any country or while on active duty in the National Guard or other armed forces reserve force.

(c) Any other provision of law to the contrary notwithstanding, any member who is receiving disability benefits pursuant to this Code section on June 30, 1990, and who had at least 20 years of creditable service at the time such member first became eligible for such disability benefits shall receive the same benefits as a member who retires at age 55 or older with 20 years of creditable service under the provisions of Code Section 47-17-80. For each year of service above 20 years but not more than 30 years which such member had when first becoming eligible to receive disability benefits, the benefits shall be the same as those provided for the same number of years of creditable service under the provisions of Code Section 47-17-80. The benefits of such members who are receiving disability benefits pursuant to this Code section on June 30, 1990, shall be recomputed and the increased benefits shall be paid to such members beginning July 1, 1990. Any member who first becomes eligible to receive disability benefits on or after July 1, 1990, who has the required years of creditable service as provided in this subsection shall have disability benefits computed and paid in the same manner as provided in this subsection.

(d) The amount of disability benefits in this Code section shall apply to those members who have retired on disability prior to July 1, 1990, as well as to those members who retire on disability on or after that date. The service of each such member who retired prior to July 1, 1990, shall be recomputed, and the benefits provided under this Code section shall be paid to such member in the future beginning July 1, 1990.

(e) Once each year during the first five years following the commencement of disability benefits under this Code section, and once in



every three-year period thereafter, the board may require a disability beneficiary who has not yet attained 65 years of age to undergo a medical examination, such examination to be made at his or her place of residence, or other place mutually agreed upon, by physicians designated by the board. The disability benefits recipient may himself or herself request such an examination. The designated physicians shall report to the board, following each such examination, the current status and condition of the recipient's disability.

(f) A disabled member's disability benefits shall cease:

(1) Upon his or her return to gainful employment with the employer for which he or she worked at the time his or her disability originated;

(2) If he or she refuses to submit to any medical examination requested under this Code section, in which case the benefits shall remain discontinued until the member's withdrawal of such refusal and submission to the requested medical examination; and, if his or her refusal continues for one year, all his or her rights in and to disability benefits may be revoked by the board;

(3) If the board determines on the basis of any medical examination that the member has sufficiently recovered from his or her disability so as to again be able to perform substantially all of the duties of the position to which he or she was regularly assigned when the disability originated, or so as to be able to engage in an occupation or gainful employment for which he or she is reasonably suited by virtue of his or her background, training, education, and experience;

(4) If the member does in fact obtain gainful employment compensating him or her at a level equal to or greater than the current compensation for the position he or she occupied at the time his or her disability originated; or

(5) When he or she dies.

(g) The board shall prescribe and furnish a form and procedure for the application for disability benefits. Applications shall contain such information as the board shall require. Upon the receipt of an application, the board may pass upon and decide whether to grant or deny the application on the basis of the submitted information or may refer the application to its duly appointed hearing officer for a recommendation. Any applicant for disability benefits shall have the right to request the board to refer his or her application to the hearing officer for a recommendation. In the consideration of any application for disability benefits, the receipt of disability benefits or payments by the applicant under the federal Social Security Act shall be deemed sufficient for eligibility for disability benefits under this Code section.



(h) Any other provision of this Code section to the contrary notwithstanding, no person who becomes a member or again becomes a member of this fund on or after July 1, 1993, shall be entitled to any benefit provided for in this Code section. (Ga. L. 1950, p. 50, § 12; Ga. L. 1951, p. 472, § 4; Ga. L. 1952, p. 81, § 2; Ga. L. 1956, p. 280, § 11; Ga. L. 1958, p. 341, § 7; Ga. L. 1959, p. 330, § 3; Ga. L. 1962, p. 39, § 6; Ga. L. 1963, p. 386, § 1; Ga. L. 1976, p. 580, § 1; Ga. L. 1977, p. 682, § 1; Ga. L. 1979, p. 430, §§ 4, 5; Ga. L. 1981, p. 454, §§ 4, 5; Ga. L. 1982, p. 3, § 47; Ga. L. 1982, p. 2367, §§ 1, 2; Ga. L. 1986, p. 30, § 1; Ga. L. 1986, p. 609, § 2; Ga. L. 1988, p. 999, § 2; Ga. L. 1990, p. 482, § 2; Ga. L. 1993, p. 1000, §§ 3, 4; Ga. L. 2012, p. 769, § 2/HB 928.)

**The 2012 amendment**, effective July 1, 2012, inserted “or her” and inserted “or she” throughout this Code section; inserted “or herself” in the second sentence of subsection (e); deleted subsections (h)

through (q), relating to authority and duties of a hearing officer; and redesignated former subsection (r) as present subsection (h).

## ARTICLE 7

### MISCELLANEOUS PROVISIONS

#### **47-17-105. Member’s obligation to notify board of employment change.**

If at any time a member of the fund undergoes a change of employment to a position that does not qualify the member as a “peace officer” as such term is defined in this chapter, or if his or her job description changes in a manner that is inconsistent with such definition, such member shall have an affirmative duty to notify the board of such change immediately. The board is not authorized to accept membership dues from any such member or to pay benefits calculated on service after such a change of employment or job description. (Code 1981, § 47-17-105, enacted by Ga. L. 2012, p. 809, § 1/HB 987.)

**Effective date.** — This Code section became effective July 1, 2012.



**CHAPTER 18**

**SOCIAL SECURITY COVERAGE FOR EMPLOYEES OF  
THE STATE AND POLITICAL SUBDIVISIONS  
OF THE STATE**

**Article 1**

**General Provisions**

Sec.

47-18-2. Definitions.

**ARTICLE 1**

**GENERAL PROVISIONS**

**47-18-2. Definitions.**

As used in this chapter, the term:

(1) “Employee” includes an officer of a political subdivision of the state. Any individual compensated for services as a school bus driver, either through a contractual relationship or otherwise, is deemed to be an employee of the governing board of education for which such services are performed.

(2) “Employee tax” means the tax imposed by Section 1400 of the federal Internal Revenue Code of 1939 and Section 3101 of the federal Internal Revenue Code.

(3) “Employment” means any service performed by an employee in the employ of the state or any political subdivision of the state, for such employer, except:

(A) Service which in the absence of an agreement entered into under this chapter would constitute “employment,” as defined in the Social Security Act; or

(B) Service which under the Social Security Act may not be included in an agreement between the state and the secretary of health and human services entered into under this chapter. Service which under the Social Security Act may be included in an agreement only upon certification by the Governor in accordance with Section 218(d)(3) of the Social Security Act shall be included in the term “employment” if and when the Governor issues, with respect to such service, a certificate to the secretary of health and human services, pursuant to subsection (b) of Code Section 47-18-42.

(4) “Federal Insurance Contributions Act” means Subchapter A of Chapter 9 of the federal Internal Revenue Code of 1939 and



Subchapters A and B of Chapter 21 of the federal Internal Revenue Code, as such codes have been and may from time to time be amended.

(5) “Political subdivision” means counties and incorporated municipalities and includes an instrumentality of: (A) the state, (B) one or more political subdivisions of the state, or (C) the state and one or more of its political subdivisions. Such term also includes the Board of Regents of the University System of Georgia, the Federal-State Cooperative Inspection Service of the State of Georgia, the Board of Trustees of Georgia Military College, and the Georgia Municipal Association.

(6) “Secretary of health and human services” includes any individual to whom the secretary of health and human services has delegated any functions under the Social Security Act, with respect to coverage under such act, of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such administrator had delegated any such functions.

(7) “Social Security Act” means the act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the “Social Security Act,” as such act has been and may from time to time be amended. Such term shall also include regulations and requirements issued pursuant to that act.

(8) “State agency” means the Employees’ Retirement System of Georgia.

(9) “Wages” means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of such remuneration which, even if it were for “employment” within the meaning of the Federal Insurance Contributions Act, would not constitute “wages” within the meaning of that act. (Ga. L. 1953, Nov.-Dec. Sess., p. 294, § 2; Ga. L. 1956, p. 75, § 2; Ga. L. 1958, p. 198, § 1; Ga. L. 1959, p. 445, § 1; Ga. L. 1966, p. 150, § 1; Ga. L. 1987, p. 191, § 9; Ga. L. 2010, p. 1248, § 1/HB 997; Ga. L. 2012, p. 413, § 10/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted “Employees’ Retirement System of Georgia” for “State Personnel Administration” in paragraph (8).

**Editor’s notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: “The purpose of this Act is to make conforming amendments and correct references in Title 47 of

the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and



which provides for the abolition of the State Personnel Administration and the transfer of functions.  
Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: "This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such

agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012." Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

CHAPTER 19

STATE EMPLOYEES' ASSURANCE DEPARTMENT

Sec.  
47-19-1. Creation of the State Employees' Assurance Department; management of the department; membership of the board of directors.

Sec.  
47-19-9. Application of the state system of personnel administration to employees of the department; payment of share of costs.

47-19-1. Creation of the State Employees' Assurance Department; management of the department; membership of the board of directors.

There is created a department of the state government to be known as the State Employees' Assurance Department. The department shall be managed by a board of directors consisting of the state treasurer, the Commissioner of Labor, the state auditor, the commissioner of administrative services, and two members to be appointed by the Governor. (Ga. L. 1963, p. 521, § 1; Ga. L. 1986, p. 999, § 2; Ga. L. 1991, p. 274, § 3; Ga. L. 1993, p. 1402, § 18; Ga. L. 2010, p. 863, § 3/SB 296; Ga. L. 2012, p. 413, § 11/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted "commissioner of administrative services" for "commissioner of personnel administration" in this Code section.

**Editor's notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: "The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain

functions of such agency to the Department of Administrative Services as provided by a separate Act." The separate Act referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: "This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the



transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand

repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.

**47-19-9. Application of the state system of personnel administration to employees of the department; payment of share of costs.**

(a) The employees of the department shall be governed by such rules of position classification, appointment, promotion, demotion, dismissal, transfer, qualification, compensation, seniority, privileges, tenure, and other employment standards as may now or hereafter be established under Chapter 20 of Title 45.

(b) The department shall pay its share of the administrative costs of operating the state system of personnel administration, in the manner prescribed in Code Section 45-20-4. (Ga. L. 1963, p. 521, §§ 4, 5; Ga. L. 1982, p. 3, § 47; Ga. L. 1983, p. 3, § 36; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2012, p. 413, § 12/HB 805.)

**The 2012 amendment**, effective July 1, 2012, substituted the present provisions of subsection (b) for the former provisions, which read: “The department shall pay its pro rata share of the administrative costs of operating the State Personnel Administration, in the manner prescribed in paragraph (6) of subsection (b) of Code Section 45-20-4.”

**Editor’s notes.** — Ga. L. 2012, p. 413, § 1/HB 805, not codified by the General Assembly, provides that: “The purpose of this Act is to make conforming amendments and correct references in Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, relative to the abolition of the State Personnel Administration and the transfer of certain functions of such agency to the Department of Administrative Services as provided by a separate Act.” The separate Act

referred to is Ga. L. 2012, p. 446/HB 642, which became effective July 1, 2012, and which provides for the abolition of the State Personnel Administration and the transfer of functions.

Ga. L. 2012, p. 413, § 13/HB 805, not codified by the General Assembly, provides that: “This Act shall become effective on July 1, 2012, only if an Act abolishing the State Personnel Administration and providing for the transfer of certain functions of such agency to the Department of Administrative Services is enacted and becomes effective on that same date; otherwise, this Act shall not become effective and shall stand repealed on July 1, 2012.” Ga. L. 2012, p. 446/HB 642, effective July 1, 2012, provides for the abolition of the State Personnel Administration and the transfer of functions.



CHAPTER 20

PUBLIC RETIREMENT SYSTEMS STANDARDS

<b>Article 1</b>		Sec.	
<b>General Provisions</b>		47-20-83.	Certificated or uncertificated forms of investment; real estate investments.
Sec.			
47-20-3.	Definitions.		
47-20-5.	Common law duties of trustees applicable.	47-20-83.1.	Definitions; identification of scrutinized companies where public funds held; Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; reporting [Repealed].
<b>Article 2</b>			
<b>Minimum Funding Standards</b>			
47-20-10.	Minimum annual employer contribution.	47-20-87.	Definitions; eligible large retirement systems authorized to invest in certain alternative investments; applicability.
<b>Article 7</b>			
<b>Public Retirement Systems Investment Authority Law</b>			
47-20-82.	Investing funds; eligibility; investment limitation.		

ARTICLE 1

GENERAL PROVISIONS

47-20-3. Definitions.

As used in this chapter, the term:

- (1) “Accumulated retirement system benefits” means benefits that are attributable under the provisions of a retirement system to employees’ service rendered to a specific valuation date.
- (2) “Actuarial accrued liability” means that portion, as determined by a particular actuarial cost method, of the actuarial present value of retirement system benefits and expenses which is not provided for by future normal costs.
- (3) “Actuarial assumptions” means assumptions as to the occurrence of future events affecting retirement system costs such as: mortality, withdrawal, disability, and retirement; changes in compensation and national pension benefits; rates of investment earnings and asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other relevant items.
- (4) “Actuarial cost method” means a procedure for determining the actuarial present value of retirement system benefits and expenses and for developing an actuarially equivalent allocation of such value to time periods, usually in the form of a normal cost and an actuarial



accrued liability. Acceptable actuarial cost methods are the aggregate, attained age, entry age, frozen attained age, frozen entry age, and unit credit methods.

(5) “Actuarial present value” means the value of an amount or series of amounts payable or receivable at various times from a retirement system, determined as of a given date by the application of a particular set of actuarial assumptions.

(6) “Actuarial present value of accumulated retirement system benefits” means the amount as of a valuation date that results from applying actuarial assumptions to the accumulated retirement system benefits, with the actuarial assumptions being used to adjust those benefits to reflect the time value of money, through discounts for interest, and the probability of payment, by means of decrements such as for death, disability, withdrawal, or retirement, between the valuation date and the expected date of payments.

(7) “Actuarial valuation” means the determination, as of a valuation date, of the normal cost, actuarial accrued liability, actuarial value of assets, and related actuarial present values for a retirement system.

(8) “Actuarial value of assets” means the value of cash, investments, and other property belonging to a retirement system, as used by the actuary for the purpose of an actuarial valuation.

(9) “Actuary” means an actuary who is enrolled under Subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974, P.L. 93-406, or an associate of the Society of Actuaries.

(10) “Annual required contribution” means the annual required contribution determined in accordance with the requirements of Governmental Accounting Standards Board Statements No. 25 and No. 27 as in effect on June 15, 2013.

(11) “Beneficiary” means a person receiving or entitled to receive a benefit pursuant to a retirement system.

(12) “Benefit” means any benefit, including disability benefits, which is paid or payable to a beneficiary under a retirement system.

(13) “Benefit increase” means a change in or amendment to a retirement system which results or will result in an increase in the benefits being paid or which will be paid to a beneficiary or potential beneficiary under a retirement system and includes any change in a retirement system which decreases the requirements for becoming eligible to receive a benefit and any change which grants or authorizes a member or members of a retirement system to obtain additional creditable service under the retirement system for service



rendered in a capacity other than as a member of the retirement system.

(14) “Employee” means officials and employees of the state or of any department, board, bureau, commission, authority, or other agency thereof and the officials and employees of a political subdivision or any agency thereof who are or who become members of a retirement system.

(15) “Employee contribution” means that part of the compensation of an employee which is paid by or on behalf of an employee as a contribution to a retirement system.

(16) “Employer” means the State of Georgia for any retirement system financially supported in whole or in part by appropriations made by the General Assembly, by the proceeds of a tax levied by law enacted by the General Assembly, or by fines and forfeitures or portions of fines and designated by law as a source of funding for a retirement system; and, for any retirement system supported in whole or in part by the funds of a political subdivision, “employer” means the local governing authority authorizing or providing for the local retirement system.

(17) “Employer contribution” means:

(A) Funds paid by an employer to support financially a retirement system;

(B) Public funds, whether by taxes, fines and forfeitures, or other sources, devoted to the financial support of a retirement system; and

(C) Any other funds, other than employee contributions, used to support financially a retirement system.

(18) “Legislatively controlled retirement system” means a retirement system in existence on January 1, 1984, which was created by an Act of the General Assembly and which may be amended only by an Act of the General Assembly.

(19) “Local governing authority” means the council, board of aldermen, board of commissioners, commissioner, local board of education, or other person or body of persons entrusted by law with the administration, management, and control of the fiscal affairs of a political subdivision.

(19.1) “Negative unfunded actuarial accrued liability” means for any actuarial valuation the excess of actuarial value of assets over the actuarial accrued liability of a retirement system under an actuarial cost method utilized by the retirement system for funding purposes.



(20) "Normal cost" means that portion of the actuarial present value of a retirement system benefits and expenses which is allocated to a valuation year by the actuarial cost method used for the retirement system.

(20.1) "Normal cost contribution" means the contribution for the portion of the actuarial present value of a retirement system's benefits and expenses which is allocated to a valuation year by the actuarial cost method used for the retirement system.

(21) "Political subdivision" means any county, municipality, or local school district of this state or any authority created for or on behalf of any such political subdivision or created for or on behalf of any combination of such political subdivisions.

(22) "Retirement bill" means any bill or resolution introduced into the General Assembly which creates or affects a retirement system.

(23) "Retirement system" means any retirement or pension plan or any other plan or program which exists on January 1, 1984, or which is created or established on or after that date, and which is maintained by an employer or maintained pursuant to law or other authority of an employer for the purpose of paying benefits to employees or their beneficiaries after employees cease active employment by retirement, disability, death, or other termination. The term "retirement system" shall include any plan or program which creates a retired position, commonly referred to as "emeritus," and provides a salary for the retired position in lieu of a retirement benefit. The term "retirement system" shall not include an individual retirement account or other plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account and any income, expenses, gains, and losses and any forfeitures of accounts of other participants which may be allocated to a participant's account.

(24) "Retirement system administrator" means the board of trustees or other body or individual having responsibility, either by law or by other authority of an employer, for the management and administration of a retirement system.

(24.1) "Unfunded accrued liability contribution" means the difference between the total employer and employee contribution and the normal cost contribution.

(25) "Unfunded actuarial accrued liability" means for any actuarial valuation the excess of the actuarial accrued liability over the actuarial value of the assets of a retirement system under an actuarial cost method utilized by the retirement system for funding purposes. (Code 1981, § 47-20-3, enacted by Ga. L. 1983, p. 1368, § 1;



Ga. L. 1985, p. 209, § 1; Ga. L. 1987, p. 240, § 1; Ga. L. 2000, p. 131, § 1; Ga. L. 2000, p. 1208, § 1; Ga. L. 2001, p. 21, § 1; Ga. L. 2005, p. 535, §§ 22-26/HB 460; Ga. L. 2014, p. 198, § 1/HB 761.)

**The 2014 amendment**, effective July 1, 2014, substituted “as in effect on June 15, 2013” for “or any subsequent applicable Governmental Accounting Standards Board statements” at the end of paragraph (10).

#### **47-20-5. Common law duties of trustees applicable.**

The duties of the boards of trustees of public retirement systems or pension plans contained in this title are in addition to, and not in limitation of, the common law duties of the trustee found in Title 53 except to the extent inconsistent with those within this title. (Code 1981, § 47-20-5, enacted by Ga. L. 2013, p. 682, § 1/SB 143.)

**Effective date.** — This Code section became effective July 1, 2013.

### **ARTICLE 2**

#### **MINIMUM FUNDING STANDARDS**

#### **47-20-10. Minimum annual employer contribution.**

(a) In order to assure the actuarial soundness of each retirement system, the minimum annual employer contribution for each retirement system, unless excepted by Code Section 47-20-13, shall be the sum of the amounts determined under paragraphs (1), (2), and (3) of this subsection minus the amount determined under paragraph (4) of this subsection; provided, however, that under no circumstances shall the minimum annual employer contribution be less than zero or result in a contribution credit for a subsequent year, as follows:

(1) The normal cost of the retirement system for the year; plus

(2) The amounts necessary to amortize:

(A) The unfunded actuarial accrued liability over a period of 40 years in the case of a retirement system in existence on January 1, 1983, based on the first actuarial valuation of the retirement system which is made on or after January 1, 1984; or

(B) The unfunded actuarial accrued liability over a period of 30 years in the case of a retirement system which is created or established after January 1, 1983, based on the first actuarial valuation of the retirement system; plus

(C) The increase, if any, in unfunded actuarial accrued liability over a period of 20 years for any such increase which occurs after



January 1, 1984, during any year as a result of changes made in the provisions of the retirement system affecting active employees; plus

(D) The increase, if any, in unfunded actuarial accrued liability over a period of 15 years for any such increase which occurs from experience under the actuarial assumptions applicable to the retirement system; plus

(E) The increase, if any, in unfunded actuarial accrued liability over a period of 30 years for any such increase resulting from changes in actuarial assumptions applicable to the retirement system; plus

(3) If not otherwise included in the calculations under paragraph (1) or (2) or paragraphs (1) and (2) of this subsection:

(A) The amount necessary to amortize over a period of ten years in equal annual installments the increase, if any, in unfunded actuarial accrued liability resulting from benefit increases granted during the year to beneficiaries under the retirement system; or

(B) The amount necessary to pay the amount of increase in benefits granted during the year to beneficiaries under the retirement system on a current disbursement or pay-as-you-go basis; minus

(4) The amount:

(A) Necessary to amortize the decrease, if any, in unfunded actuarial accrued liability over a period of 20 years for any such decrease which occurs after January 1, 1984, during any year as a result of changes made in the provisions of the retirement system; plus

(B) Necessary to amortize the decrease in unfunded actuarial accrued liability, if any, over a period of 15 years for any such decrease which occurs from experience under the actuarial assumptions applicable to the retirement system; plus

(C) Necessary to amortize the decrease in unfunded actuarial accrued liability, if any, over a period of 30 years for any such decrease resulting from changes in the actuarial assumptions applicable to the retirement system; plus

(D) In excess of the minimum annual employer contribution required by this Code section which accumulates after January 1, 1984; plus

(E) Employee contributions for the year.

(b) In the case of a retirement system which uses a formula related to the compensation of the members of the retirement system as a basis



for the calculation of benefits under the retirement system, the amortization amounts required by subsection (a) of this Code section, except for the amount determined under paragraph (3) of subsection (a) of this Code section, may be determined as a level percentage of future compensation. If such level percentage amortization is used, the actuarial assumption for future annual payroll growth shall not exceed the actuarial assumed valuation interest rate of the retirement system less 2 1/2 percent. The minimum standards provided by subsection (a) of this Code section are deemed to have been met if such level percentage amortization is used and the employer contribution is equal to or greater than the annual required contribution as is determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27 as in effect on June 15, 2013.

(c) In the case of a retirement system which does not use a formula related to the compensation of the members of such retirement system as a basis for the calculation of benefits under such retirement system, the minimum funding standards provided for in subsection (a) of this Code section shall be deemed to have been met if the employer contribution is equal to or greater than the annual contribution as determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27 as in effect on June 15, 2013.

(d)(1) The minimum funding standards provided for in subsection (a) of this Code section shall be deemed to have been met if as of the latest actuarial valuation a retirement system has a negative unfunded actuarial accrued liability and the employer contribution is equal to or greater than the annual required contribution as determined in accordance with the provisions of Governmental Accounting Standards Board Statements No. 25 and No. 27 as in effect on June 15, 2013; provided, however, that in no case shall the negative unfunded actuarial accrued liability be amortized over a period of less than ten years. If a retirement system has such a negative unfunded actuarial accrued liability, the amounts necessary to amortize under paragraphs (2), (3), and (4) of subsection (a) of this Code section established prior to the current actuarial valuation date will be considered to be fully amortized under the minimum funding standards provided by subsection (a) of this Code section.

(2) In any actuarial valuation subsequent to the valuation in which a retirement system is found to have complied with the provisions of paragraph (1) of this subsection, if the retirement system still has a negative unfunded actuarial accrued liability, the only amortization required under such minimum funding standards will be an amortization of the negative unfunded actuarial accrued liability over a period of not less than ten years of the actuarial



accrued liability. For any such subsequent actuarial valuations, whenever the retirement system again has an unfunded actuarial accrued liability, the minimum standards provided by subsection (a) of this Code section shall apply with new amounts necessary to amortize the newly created unfunded actuarial accrued liability.

(e) In determining the minimum annual employer contribution under subsection (a) of this Code section:

(1) All benefits which it is reasonable to anticipate will be paid from the retirement system because of the current active members and payments to beneficiaries shall be taken into account; and

(2) All costs, liabilities, and other factors under the retirement system shall be determined by an actuary on the basis of an actuarial cost method and actuarial assumptions which, in the aggregate, are reasonable, considering the experience of the retirement system and reasonable expectations, and which, in combination, offer the actuary's best estimate of anticipated experience under the retirement system.

(f) Upon completion of the first actuarial investigation of a retirement system after January 1, 1984, and for each subsequent actuarial investigation, the minimum annual employer contribution required by this Code section shall be increased by an amount equivalent to the interest earned on such minimum annual employer contribution, based on the actuarial assumed valuation interest rate applicable to the retirement system, from the date of such actuarial investigation until the date the minimum annual employer contribution is made to the retirement system. This subsection shall not apply to a retirement system to which annual employer contributions are being made in excess of the minimum annual employer contribution required by this Code section.

(g) In no event will employee contributions of active members of a retirement system be used to pay benefits to beneficiaries under the retirement system.

(h) The minimum funding requirements of this Code section shall not apply to prefunding, in whole or in part, of anticipated future costs of providing other post-employment benefits as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for retired employees of a political subdivision including those presently retired and those anticipated to retire in the future, as provided in Code Section 47-20-10.1. Such prefunding may be maintained as part of the same investment pool as the fund receiving employer and employee contributions to pay the cost of providing retirement benefits under any retirement system maintained by the political subdivision for its employees so long as such funds are



separately accounted for and separate records are maintained with respect to each fund. Funds maintained by a political subdivision for the purpose of prefunding other post-employment benefits for retired employees may be invested and reinvested in accordance with the provisions of Code Section 47-1-12, or Article 7 of Chapter 20 of this title, as applicable, and, for the purposes of that Code section or article and the home rule provisions of the laws and the Constitution of the State of Georgia only, such funds shall be treated in the same manner as retirement funds. (Code 1981, § 47-20-10, enacted by Ga. L. 1983, p. 1368, § 1; Ga. L. 1985, p. 209, § 1; Ga. L. 1991, p. 685, § 1; Ga. L. 1993, p. 86, § 1; Ga. L. 2000, p. 131, § 1; Ga. L. 2000, p. 1208, § 2; Ga. L. 2001, p. 21, § 1; Ga. L. 2005, p. 535, § 27/HB 460; Ga. L. 2007, p. 68, § 1/SB 156; Ga. L. 2014, p. 198, § 2/HB 761.)

**The 2014 amendment**, effective July 1, 2014, added “as in effect on June 15, 2013” at the end of subsections (b) and (c); and inserted “as in effect on June 15, 2013” in the middle of the first sentence of paragraph (d)(1).

## ARTICLE 7

### PUBLIC RETIREMENT SYSTEMS INVESTMENT AUTHORITY LAW

#### **47-20-82. Investing funds; eligibility; investment limitation.**

(a) Funds shall invest in or lend their assets on the security of, and shall hold as invested assets, only eligible investments as prescribed in this article.

(b) Eligibility of an investment shall be determined as of the date of its making or acquisition.

(c) Any investment limitation based upon the amount of the fund’s assets shall relate to such assets on the basis of the assets’ aggregate historical cost. For purposes of any investment made in alternative investments pursuant to Code Section 47-7-127 or 47-20-87, aggregate historical cost shall include all contractually committed, unpaid amounts. (Code 1981, § 47-20-82, enacted by Ga. L. 2000, p. 2, § 2; Ga. L. 2012, p. 211, § 2/SB 402.)

**The 2012 amendment**, effective July 1, 2012, added the last sentence to subsection (c).

**Editor’s notes.** — Ga. L. 2012, p. 211, § 1/SB 402, not codified by the General

Assembly, provides that: “This Act shall be known and may be cited as the ‘Employees’ Retirement System of Georgia Enhanced Investment Authority Act.’”.



**47-20-83. Certificated or uncertificated forms of investment; real estate investments.**

(a) Subject to limitations stated in this article, funds may invest in the following in certificated or uncertificated form:

(1) Corporations or obligations of corporations organized under the laws of this state or any other state or under the laws of Canada, but only if the corporation has a market capitalization equivalent to \$100 million; provided, however, that except as provided in Code Section 47-20-84, no fund shall invest in corporations or in obligations of corporations organized in a country other than the United States or Canada; provided, further, that such obligation shall be listed as investment grade by a nationally recognized rating agency. For purposes of this paragraph, a corporation organized under the laws of a country other than the United States or Canada shall be deemed to be organized under the laws of this state or another state unless it is a private foreign issuer within the meaning of United States Securities and Exchange Commission Rule 3b-4, 17 C.F.R. Section 240.3b-4, as such appears on July 1, 2007; this will not include any investment with any corporation that is included in the terrorism sanctions issued by the Office of Foreign Assets Control of the United States Department of the Treasury pursuant to Executive Order 13224 signed by the President of the United States on September 23, 2001;

(2) Repurchase and reverse repurchase agreements for direct obligations of the United States government and for obligations unconditionally guaranteed by agencies of the United States government and for investments eligible under paragraph (1) of this subsection;

(3) Cash assets or deposits in checking or savings accounts under certificates of deposit or in other form in banks and trust companies and in savings accounts, certificates of deposit, or similar certificates or evidences of deposits in savings and loan associations and building and loan associations which have qualified for the insurance protection afforded by the Federal Deposit Insurance Corporation;

(4) Bonds, notes, warrants, and other evidence of indebtedness which are direct obligations of the government of the United States of America or for which the full faith and credit of the government of the United States of America is pledged for the payment of principal and interest;

(5) Loans guaranteed as to principal and interest by the government of the United States of America, or by any agency or instrumentality of the government of the United States of America, to the extent of such guaranty;



(6) Taxable bonds, notes, warrants, and other securities not in default which are the direct obligations of any state of the United States or of the District of Columbia, or of the government of Canada or any province of Canada, or for which the full faith and credit of such state, district, government, or province has been pledged for the payment of principal and interest;

(7) Bonds, notes, warrants, and other securities not in default which are the direct obligations of the government of any foreign country which the International Monetary Fund lists as an industrialized country and for which the full faith and credit of such government has been pledged for the payment of principal and interest, provided such securities are listed as investment grade by a nationally recognized rating agency;

(8) Bonds, debentures, or other securities issued or insured or guaranteed by any agency, authority, unit, or corporate body created by the government of the United States of America whether or not such obligations are guaranteed by the United States;

(9) Collateralized mortgage obligations that are listed as investment grade by a nationally recognized rating agency;

(10) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development or the International Financial Corporation;

(11) In addition to those investments eligible under paragraph (1) of this subsection, bonds, debentures, notes, and other evidences of indebtedness issued, assumed, or guaranteed by any solvent institution existing under the laws of the United States of America or of Canada, or any state or province thereof, which are not in default as to principal or interest and which are secured by collateral worth at least 50 percent more than the par value of the entire issue of such obligations, but only if not more than one-third of the total value of the required collateral consists of common stocks;

(12) In addition to those investments eligible under paragraph (1) of this subsection, secured and unsecured obligations of issuers described in paragraph (11) of this subsection other than the obligations described in paragraph (11) of this subsection, bearing interest at a fixed rate, with mandatory principal and interest due at specified times, if the net earnings of the issuing, assuming, or guaranteeing institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by the fund have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period and if during either of the last two years of the period of such net earnings have been not less than one and one-half times its fixed charges for the year;



provided, however, that any such obligation shall be listed as investment grade by a nationally recognized rating agency;

(13) In addition to those investments eligible under paragraph (1) of this subsection, equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, and the right to receive determinated portions of rental, purchase, or other fixed obligatory payments for the use or purchase of the transportation equipment;

(14) Loans that are secured by pledge or securities eligible for investment under this article;

(15) Purchase money mortgages or like securities received upon the sale or exchange of real property acquired;

(16) In addition to those investments eligible under paragraph (1) of this subsection, a mortgage or a mortgage participation, pass-through, conventional pass-through, trust certificate, or other similar security which represents an undivided, beneficial interest in a pool of loans secured by first mortgages, deeds of trust, or deeds to secure debt upon fee simple, unencumbered, improved, or income-producing real property located in the United States or Canada, which is improved with a residential building or condominium unit or buildings designed for occupancy by not more than four families, including leasehold estates in such real estate if such first mortgages, deeds of trust, or deeds to secure debt are fully guaranteed or insured by the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Federal National Mortgage Association, or any similar governmental entity or instrumentality;

(17) Land and buildings on such land used or acquired for use as a fund's office for the convenient transaction of its own business; provided, however, that portions of such buildings not used for its own business may be rented by the fund to others; provided, further, that the amount invested by a fund in office property shall not exceed 10 percent of the retirement system assets;

(18) Real property acquired in satisfaction in whole or in part of loans, mortgages, liens, judgments, decrees, or debts previously owing to the fund in the course of its business;

(19) Real property acquired in part payment of the consideration on the sale of other real property owned by the fund if such transaction effects a net reduction in the fund's investment in real estate;



(20) Real property acquired by gift or devise, or through merger or consolidation with another fund;

(21) Additional real property and equipment incident to real property if necessary or convenient for the enhancement of the marketability or sale value of real property previously acquired or held by the fund under paragraphs (18), (19), and (20) of this subsection;

(22) Business entities organized under the laws of this state or any other state or under the laws of Canada, but only if the business entity has a minimum market capitalization equivalent to \$100 million and if the business entity has elected to be taxed and continues to qualify as a real estate investment trust under Section 856 through Section 860 of the federal Internal Revenue Code, 26 U.S.C. Section 856 through Section 860; provided, however, that except as provided in Code Section 47-20-84, no fund shall invest in business entities organized in a country other than the United States or Canada;

(23) Shares of mutual funds registered with the Securities and Exchange Commission of the United States under the Investment Company Act of 1940, as amended; and

(24) Commingled funds and collective investment funds regulated by the Office of the Comptroller of the Currency of the United States Department of the Treasury, including common and group trusts, and, to the extent the funds are invested in such collective investment funds, the funds shall adopt the terms of the instruments establishing any group trust in accordance with applicable United States Internal Revenue Service Revenue Rulings.

(b) Notwithstanding the provisions of subsection (a) of this Code section, the Georgia Municipal Employees Benefit System and any association of like political subdivisions which contracts with its members for the pooling of assets may invest up to 10 percent of the total assets of its fund in real estate; provided, however, that in the event the fund's assets decrease in value, the association shall be entitled to retain all real estate investments if owned prior to the reduction in value of assets; provided, further, that any such association shall be entitled to retain all real estate assets it owned on July 1, 1999, without regard to the limitation imposed by this subsection. (Code 1981, § 47-20-83, enacted by Ga. L. 2000, p. 2, § 2; Ga. L. 2001, p. 21, § 1; Ga. L. 2007, p. 115, §§ 1, 2/HB 318; Ga. L. 2009, p. 368, § 1/SB 48; Ga. L. 2013, p. 612, § 1/HB 71; Ga. L. 2015, p. 887, § 1/HB 217.)

**The 2013 amendment**, effective July 1, 2013, substituted "10 percent" for "5 percent" near the middle of subsection (b).

**The 2015 amendment**, effective July 1, 2015, in subsection (a), deleted "and" at the end of paragraph (a)(21), substituted a



semicolon for the period at the end of paragraph (a)(22), and added paragraphs (a)(23) and (a)(24).

**47-20-83.1. Definitions; identification of scrutinized companies where public funds held; Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; reporting.**

Repealed by Ga. L. 2008, p. 1022, § 3.1/SB 451, effective July 1, 2015.

**Editor's notes.** — This Code section enacted by Ga. L. 2008, p. 1022, § 3/SB was based on Code 1981, § 47-20-83.1, 451; Ga. L. 2010, p. 863, § 3/SB 296.

**47-20-87. Definitions; eligible large retirement systems authorized to invest in certain alternative investments; applicability.**

(a) As used in this Code section, the term:

(1) “Alternative investments” means the following investments:

(A) Privately placed investment pools, including, without limitation, private investment funds, such as:

- (i) Leveraged buyout funds;
- (ii) Mezzanine funds;
- (iii) Workout funds;
- (iv) Debt funds;
- (v) Venture capital funds;
- (vi) Merchant banking funds; and
- (vii) Funds of funds and secondary funds

that include investments in privately placed investment pools described in this subparagraph, in each case whether structured as a partnership, limited liability company, trust, corporation, joint venture, or other entity or investment vehicle of any type; organized or operating in one of the states or territories of the United States or outside the United States; such pool will invest in the United States or outside the United States or any combination thereof; or such pool makes investments of the type described in subparagraph (B) of this paragraph or other investments of any type or any combination thereof;

(B) Private placements and other private investments, including without limitation:



- (i) Leveraged buyouts;
  - (ii) Venture capital investment;
  - (iii) Equity investments, including, without limitation, preferred and common stock;
  - (iv) Warrants;
  - (v) Options;
  - (vi) Private investments in public securities;
  - (vii) Recapitalizations;
  - (viii) Privatizations;
  - (ix) Mezzanine debt investments;
  - (x) Distressed debt and equity investments, including, without limitation, cases in which the investor may take control of the issuer;
  - (xi) Other debt investments, whether secured or unsecured, senior or subordinated, recourse or nonrecourse, convertible, or otherwise;
  - (xii) Convertible securities;
  - (xiii) Receivables;
  - (xiv) Interests, as such term is referred to in 11 U.S.C. Sections 501 and 502;
  - (xv) Claims, as such term is defined in 11 U.S.C. Section 101(5);
  - (xvi) Debt and equity derivative instruments of all types; and
  - (xvii) All other debt and equity private placements of all types, in each case whether issued by a partnership, limited liability company, trust, corporation, joint venture, or other entity or vehicle of any type or whether the issuer is organized or does business in one of the states or territories of the United States or outside the United States; and
- (C) Any distribution in kind received by an eligible large retirement system in connection with any investment described in subparagraphs (A) and (B) of this paragraph.

(2) “Eligible large retirement system” means a large retirement system as defined in subsection (a) of Code Section 47-20-84; provided, however, that such term shall not include the Teachers Retirement System of Georgia.



(b) In addition to the eligible investments authorized by Code Section 47-20-82, and without applicability of any restrictions set forth in Code Sections 47-20-83 and 47-20-84, an eligible large retirement system is authorized to invest in alternative investments in accordance with the provisions of this Code section. Further, when provisions of Code Section 47-20-83 or 47-20-84 or any provisions of this article other than this Code section limit a particular form of investment to a certain percentage of retirement system assets, the denominator will include alternative investments with all other investments, but the numerator for any such calculation shall not include any alternative investments, even if any such alternative investment is of a like kind as the investments that are included in the numerator.

(c) An alternative investment shall not exceed in any case 20 percent of the aggregate amount of:

(1) The capital to be invested in the applicable private pool, including all parallel pools and other related investment vehicles established as part of the investment program of the applicable private pool; and

(2) The securities being issued in the applicable private placement, in each case determined at the time such alternative investment is initially either made or committed to be made, as applicable, but taking into consideration any investments that have previously been or are concurrently being made or committed to be made.

Each alternative investment by an eligible large retirement system shall have previously been or shall be concurrently made or committed to be made by at least four other investors not affiliated with the issuer. At the time of initial investment, such investors shall not include any trustee of the eligible large retirement system making the investment or any public official as defined in paragraph (9) of Code Section 45-10-20. Such four other investors shall be investing on substantially the same terms and conditions as those applicable to the investment by the eligible large retirement system to the extent such other investors are similarly situated with the eligible large retirement system. Alternative investments shall only be made in private pools and issuers that have at least \$100 million in assets, including committed capital, at the time the investment is initially made or committed to be made by an eligible large retirement system.

(d) Alternative investments by an eligible large retirement system shall not in the aggregate exceed 5 percent of the eligible large retirement system assets at any time. The board of trustees of an eligible large retirement system shall have the discretion to designate whether any investment that is permitted to be made as an alternative investment pursuant to this Code section and that is also permitted to



be made as an investment pursuant to Code Section 47-20-83 shall be treated for purposes of the 5 percent limitation and otherwise as an alternative investment made pursuant to this Code section or as an investment made pursuant to Code Section 47-20-83. If the eligible large retirement system is not in compliance with the limitations imposed by this subsection, it shall make a good faith effort to come into compliance within two years and in any event as soon as practicable thereafter; provided, however, that during any period of noncompliance, the eligible large retirement system shall not increase the percentage of its assets committed to be invested in alternative investments but shall be permitted during such period to continue to make investments as required by the then existing commitments of the eligible large retirement system to alternative investments made before the period of noncompliance.

(e) The provisions of this subsection shall apply only to the Employees' Retirement System of Georgia. New commitments to alternative investments shall not in the aggregate exceed 1 percent of the retirement system assets in any calendar year until the first occurrence that 4 1/2 percent of the retirement system assets are invested in alternative investments, at which time there shall be no limit on the percentage of commitments that may be made in any calendar year, subject to compliance with the other provisions of this Code section.

(f)(1) For purposes of this subsection, the term "information" shall include, without limitation, preinvestment and postinvestment diligence information, including reviews and analyses prepared or provided by the issuer of a potential or actual alternative investment or prepared by or for an eligible large retirement system or otherwise relating to a potential or actual alternative investment.

(2) In addition to those records that are exempted from being open to inspection by the general public under Code Section 47-1-14 and except as otherwise provided in this subsection, an eligible large retirement system may in its discretion treat as confidential and withhold from public inspection and disclosure all information prepared or provided by the issuer of a potential or actual alternative investment or prepared by or for an eligible large retirement system or otherwise relating to a potential or actual alternative investment and held by an eligible large retirement system and may agree in making an alternative investment to treat such information as confidential and withhold it from public inspection and disclosure.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, any public retirement system created by this title, other than by Chapter 5 of this title, shall make publicly available the following information, but only to the extent the following information is otherwise available or maintained by said retirement system



in the normal course and only after a period of one year from the date such records were created:

(A) The name of any alternative investment in which the retirement system has invested; excluding, in the case of an alternative investment in a privately placed investment pool, any information concerning the investments made by such privately placed investment pool;

(B) The date the retirement system first invested in an alternative investment;

(C) The aggregate amount of money, expressed in dollars, the retirement system has invested in alternative investments as of the end of any fiscal quarter;

(D) The aggregate amount of money and the value of any in kind or other distribution, in each case, expressed in dollars, the retirement system received from alternative investments;

(E) The internal rate of return or the result under any other such standard used by the retirement system in connection with alternative investments for the asset class and for the period for which the return or standard was calculated; and

(F) The remaining cost of alternative investments in which the retirement system has invested as of the end of any fiscal quarter.

(4) The provisions of this Code section shall not restrict access to information and records under process of law or by officers otherwise entitled to them for official purposes, but such information and records shall have the same confidential status under process or with such officers as it does in the hands of an eligible large retirement system, and such officers shall respect such confidentiality to the extent consistent with their separate powers and duties.

(5) On the second Monday in March of each year, the director of any public retirement system created by this title, other than by Chapter 5 of this title, shall provide a report to the Governor and the chairpersons of the House and Senate standing committees on retirement detailing the performance of any investments made pursuant to this Code section, including, without limitation, a clear statement of the aggregate loss or profit on such investments for the preceding year. Such report shall also be posted on the retirement system's official website. This paragraph shall not be construed so as to require the disclosure of any information otherwise protected by this subsection.

(g) Unless the information has been publicly released, preinvestment and postinvestment diligence information, including



reviews and analyses, prepared or maintained by the eligible large retirement system or by an alternative investment firm shall be confidential and exempted from being open to inspection by the general public pursuant to Article 4 of Chapter 18 of Title 50, except to the extent it is subject to disclosure from the requirements of subsection (f) of this Code section.

(h) The respective boards of trustees of eligible large retirement systems making investments authorized by this Code section shall adopt a code of ethics for the consideration of and investment in and disposition of alternative investments.

(i) Funds invested pursuant to this Code section and any return on such investment shall remain funds of the retirement system. (Code 1981, § 47-20-87, enacted by Ga. L. 2012, p. 211, § 3/SB 402.)

**Effective date.** — This Code section became effective July 1, 2012.

**Editor's notes.** — Ga. L. 2012, p. 211, § 1/SB 402, not codified by the General Assembly, provides that: "This Act shall be known and may be cited as the 'Employees' Retirement System of Georgia Enhanced Investment Authority Act.'"

## CHAPTER 21

### REGENTS RETIREMENT PLAN

#### Article 1

#### General Provisions

Sec.

47-21-4. Employee and other contributions.

#### ARTICLE 1

#### GENERAL PROVISIONS

#### 47-21-4. Employee and other contributions.

(a) On and after July 1, 2013, each participating employee shall contribute to the optional retirement plan a percentage of his or her earnable compensation as determined by the board of regents.

(b) The University System of Georgia shall contribute to the optional retirement plan on behalf of each participating employee the following:

(1) Prior to January 1, 1997, an amount equal to 4 percent of the participating employee's earnable compensation;

(2) On and after January 1, 1997, and before January 1, 2009, an amount equal to the normal cost contribution determined by the



board of trustees in accordance with the provisions of Code Section 47-3-48; and

(3) On and after January 1, 2009, an amount determined by the board of regents after consulting with the state auditor, the director of the Office of Planning and Budget, and the state accounting officer. The board of regents shall review the contribution amount every three years.

(c) The participating employee’s contribution required by the provisions of subsection (a) of this Code section may be made by a reduction in earnable compensation or by an employer pickup pursuant to the authority of any applicable provisions of the United States Internal Revenue Code, as amended. The method of contribution provided for in this subsection shall be a privilege for the convenience of employees and no right of action shall accrue to the employee or any company designated to provide such optional retirement plan for errors, omissions, or decisions of any agent of the University System of Georgia regarding deductions under this subsection.

(d) All contributions authorized or required by this Code section shall be paid to the designated companies for the benefit of each participating employee by the financial officer of the employing institution. (Code 1981, § 47-21-4, enacted by Ga. L. 1990, p. 1811, § 2; Ga. L. 1994, p. 660, § 1; Ga. L. 1996, p. 1244, § 1; Ga. L. 1998, p. 126, § 1; Ga. L. 2008, p. 347, § 2/HB 815; Ga. L. 2013, p. 787, § 1/HB 232.)

The 2013 amendment, effective July 1, 2013, in subsection (a), substituted “On and after July 1, 2013, each” for “Each” at the beginning, and substituted “board of

regents” for “board of trustees which shall be not less than 5 nor more than 6 percent” near the end.

CHAPTER 23		
GEORGIA JUDICIAL RETIREMENT SYSTEM		
Article 1		Sec.
General Provisions		by Legislative Counsel or Department of Law.
Sec.		Article 5
47-23-1.	Definitions.	Contributions
Article 3		
Membership in the System		47-23-80. Contributions by superior court judges and district attorneys; employer contributions.
47-23-43.	Preservation of prior rights under this Code section by certain attorneys employed	47-23-81. Contributions by judges and solicitors-general of state



Sec.		Sec.	
	courts; employer contribu- tions; reports required.	47-23-105.	Spouses' benefits; ceasing spouses' benefits; vesting; designation of survivors benefits; member who re- jected survivor's benefits may later elect such benefits by paying actuarial cost; ap- plicability.
47-23-82.	Contributions by juvenile court judges; employer con- tributions; reports required.		
47-23-84.	Payment of remainder of ac- cumulated contributions upon death.		
	<b>Article 6</b>	47-23-105.1.	Modification of retirement allowance.
	<b>Salary, Retirement, Death, and Disability Benefits</b>	47-23-109.	Cessation of retirement al- lowance for resuming state service; required notifica- tion.
47-23-102.	Vesting; benefits upon re- tirement; compliance with federal income tax laws.		

ARTICLE 1

GENERAL PROVISIONS

47-23-1. Definitions.

As used in this chapter, the term:

- (1) “Accumulated contributions” means the sum of all amounts deducted from the earnable compensation of a member or paid by the member to establish or reestablish credit for service, which amounts are credited to his or her individual account together with regular interest thereon. Such term shall also include the amount of employee contributions paid by the employer on behalf of members, together with regular interest thereon, excluding employee contributions paid by the employer or the employee for group term life insurance coverage.
- (2) “Average earnable monthly compensation” means the average earnable monthly compensation of a member during the 24 consecutive months of creditable service producing the highest such average.
- (3) “Beneficiary” means any person other than a retired member of a retirement system who is receiving a benefit from that retirement system.
- (4) “Board” means the Board of Trustees of the Georgia Judicial Retirement System.
- (5) “County pension or retirement fund” means only those certain pension and retirement funds provided for by local Acts applicable to certain named counties.
- (6) “Covered position” means an employment position eligible for membership under this chapter.



(7) "Creditable service" means prior service and membership service for which credit is allowable under this chapter, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall it include any service which has been or may be credited to a member by any other public retirement system of this state.

(8) "District attorney" means any district attorney holding office on July 1, 1998, and any district attorney taking office on or after July 1, 1998, except that the term district attorney shall not include any district attorney:

(A) Who was serving as a district attorney on June 30, 1998, and who was not a member of the District Attorneys' Retirement System; or

(B) Who is a member of any other publicly supported retirement or pension system or fund created by any law of this state, if the retirement or pension benefits under such other publicly supported retirement or pension system or fund are based wholly or partially on the compensation payable to the district attorney from state funds.

(9) "District Attorneys' Retirement System" means that retirement system created by Chapter 13 of this title as such chapter existed prior to July 1, 1998.

(10) "Earnable monthly compensation" means the full rate of regular monthly compensation payable to a member employee for his or her full working time, excluding any local supplements.

(11) "Fund" means the Georgia Judicial Retirement System Fund provided for by Code Section 47-23-22. The fund shall include, but is not limited to, a pension accumulation fund in which the benefits described in Article 6 of this chapter will be held and an employee contribution accumulation fund in which the contributions described in Article 5 of this chapter will be held.

(12) "Judge, solicitor, or solicitor-general of a state court" means a person elected or appointed to such office for a specific term. Such term shall not include any person acting as a judge or solicitor of a state court on a temporary basis or serving as judge or solicitor-general pro tempore of a state court.

(13) "Juvenile court judge" means a juvenile court judge now or hereafter appointed or otherwise holding office pursuant to Code Section 15-11-50 relative to the creation of juvenile courts, except judges of the superior courts sitting as juvenile court judges and juvenile court judges who are members of local retirement or pension systems created by local law.



(14) “Predecessor retirement system” means the District Attorneys’ Retirement System, the Superior Court Judges Retirement System, and the Trial Judges and Solicitors Retirement Fund, collectively or individually.

(15) “Regular interest” means interest at such rate as shall be determined by the board of trustees, which interest shall be compounded annually.

(16) “Retirement system” means the Georgia Judicial Retirement System.

(17) “State court” means any court created pursuant to the provisions of Chapter 7 of Title 15 or any court continued as a state court by Article VI, Section X of the Constitution of the State of Georgia; provided, however, that such term shall include the State Court of Fulton County subject to the provisions of Code Section 47-23-50.

(18) “Superior Court Judges Retirement System” means that retirement system created by Chapter 9 of this title as such chapter existed prior to July 1, 1998.

(19) “Trial Judges and Solicitors Retirement Fund” means that retirement fund created by Chapter 10 of this title as such chapter existed prior to July 1, 1998. (Code 1981, § 47-23-1, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2000, p. 20, § 25; Ga. L. 2004, p. 573, § 1; Ga. L. 2005, p. 535, § 30/HB 460; Ga. L. 2009, p. 947, § 31/HB 202; Ga. L. 2014, p. 393, § 1/SB 339.)

**The 2014 amendment**, effective April 21, 2014, part of an Act to revise, modernize, and correct this title, substituted “Code Section 15-11-50” for “Code Section 15-11-18” near the middle of paragraph (13).

## ARTICLE 3

### MEMBERSHIP IN THE SYSTEM

#### **47-23-43. Preservation of prior rights under this Code section by certain attorneys employed by Legislative Counsel or Department of Law.**

Any person employed pursuant to Code Section 28-4-3 or 45-15-31 who was subject to the former provisions of this Code section as such existed on June 30, 2005, shall retain all rights and obligations as existed on that day. Such persons shall be subject to all provisions of this chapter applicable to solicitors-general of the state courts. Employer contributions shall be paid by the respective employers under such Code sections. (Code 1981, § 47-23-43, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2000, p. 131, § 1; Ga. L. 2005, p. 57, § 1/HB 492; Ga. L. 2009, p. 315, § 1/HB 210; Ga. L. 2011, p. 504, § 1/HB 144.)



The 2011 amendment, effective May 11, 2011, part of an Act to revise, modernize, and correct this title, in the first sentence, inserted “who was”, inserted “former” near the beginning, inserted “as such existed” near the middle, and substituted “existed” for “exist” near the end.

## ARTICLE 5

### CONTRIBUTIONS

#### **47-23-80. Contributions by superior court judges and district attorneys; employer contributions.**

(a) The provisions of this Code section shall be applicable to judges of the superior courts and district attorneys. The amount of employee contributions to the fund by superior court judges shall be 7 1/2 percent of the earnable monthly compensation from state funds provided by law for judges of the superior courts. The amount of employee contributions to the fund by district attorneys shall be 7 1/2 percent of the earnable monthly compensation from state funds provided by law for district attorneys. The Council of Superior Court Judges of Georgia and the Prosecuting Attorneys’ Council of the State of Georgia, as appropriate, are authorized to deduct 7 1/2 percent monthly from the earnable monthly compensation of each judge of the superior courts and each district attorney who is a member of the retirement system to cover the employee contributions to the fund. The Council of Superior Court Judges of Georgia and the Prosecuting Attorneys’ Council of the State of Georgia, as appropriate, are also authorized to make an additional deduction from such earnable monthly compensation to cover any required employee tax for social security coverage. The Council of Superior Court Judges of Georgia and the Prosecuting Attorneys’ Council of the State of Georgia, as appropriate, are authorized and directed to pay, from the funds appropriated or otherwise available, any required employer contribution for social security coverage on such judges and district attorneys. From funds appropriated or otherwise available, The Council of Superior Court Judges of Georgia and the Prosecuting Attorneys’ Council of the State of Georgia, as appropriate, are authorized and directed to pay into the fund the employer contributions, including contributions to fund any creditable service authorized by this chapter, which, together with employee contributions and the earnings of the fund, shall be an amount sufficient to fund the service and disability retirement benefits and the spouses’ benefits under this chapter.

(b) The deductions from state earnable monthly compensation and allowances payable to judges of the superior courts and district attorneys shall be made, notwithstanding that the compensation and allowances fixed by law for such judges and district attorneys shall be



reduced thereby. Such judges and district attorneys shall be deemed to consent and agree to the deductions made; and payment of the earnable monthly compensation and allowances, less such deductions, shall be a full and complete discharge of all claims and demands whatsoever for the services rendered by such judges and district attorneys during the period covered by such payment.

(c) The employer shall pay to the retirement system on each and every payroll period employee contributions on behalf of and to the credit of each judge and district attorney in an amount equal to the amount which would be paid to the annuity savings fund pursuant to Code Section 47-2-54 if the judge or district attorney were a member of the Employees' Retirement System of Georgia. Such members shall continue to have deducted from their state earnable monthly compensation the additional amount of employee contributions required by this chapter. Such monthly contributions made by the employer on behalf of a member shall be included in the computation of the member's state earnable monthly compensation for purposes of computing retirement benefits.

(d) All members shall retain, have, and be subject to all other rights, privileges, obligations, and duties otherwise provided for in this chapter; and all such other provisions shall remain of full force and effect with respect to any matter not specifically provided for in subsection (c) of this Code section.

(e) The employee contributions described in this chapter that are paid by the employer are intended to be pick-up contributions in accordance with Section 414(h) of the federal Internal Revenue Code. Such contributions are mandatory, and no member is entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the retirement system. Such contributions shall be 100 percent vested for all purposes under the retirement system. (Code 1981, § 47-23-80, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2005, p. 535, § 33/HB 460; Ga. L. 2009, p. 753, § 17/SB 109; Ga. L. 2010, p. 1207, § 64/SB 436; Ga. L. 2014, p. 223, § 4/HB 843.)

**The 2014 amendment**, effective July 1, 2014, added subsection (e).

#### **47-23-81. Contributions by judges and solicitors-general of state courts; employer contributions; reports required.**

(a) The provisions of this Code section shall be applicable to judges and solicitors-general of state courts. The basis for employer and employee contributions to the fund with respect to a judge or solicitor-general of a state court shall be the actual earnable monthly



compensation received as such judge or solicitor-general; provided, however, that for members who become members after July 1, 1998, such amount shall not exceed the earnable monthly compensation from state funds provided by law for superior court judges.

(b)(1) The employee contributions with respect to judges and solicitors-general of state courts who are compensated by earnable monthly compensation paid by the employing units which pay the costs of the operation of such courts shall be 7 1/2 percent of the amount of such earnable monthly compensation. A person to be designated by each such employing unit shall report the amount of such earnable monthly compensation to the board by not later than the fifteenth day of each calendar month. The employing units are authorized to pay any portion of the employee contribution and to deduct employee contributions from the earnable monthly compensation of such judges and solicitors-general and to pay the contributions into the fund. An employing unit which so elects to pay any portion of the employee contribution shall apply such provisions on behalf of all state court judges and solicitors-general employed by such employing unit now or in the future, and such provisions shall apply only to the earnable monthly compensation earned by the employing unit's state court judges and solicitors-general after the effective date of the election by such employing unit to pay such member's employee contributions. Such contributions shall be forwarded to the board at the same time the report of the earnable monthly compensation of such judges and solicitors-general is forwarded. The employing units are also authorized to make an additional deduction from such earnable monthly compensation to cover any required employee tax for social security coverage. The deduction from the earnable monthly compensation payable to such judges and solicitors-general of state courts shall be made, notwithstanding that such earnable monthly compensation fixed by law for such judges and solicitors-general is reduced thereby. Such judges and solicitors-general shall be deemed to consent and agree to the deductions made; and payment of such earnable monthly compensation, less such deductions, shall be a full and complete discharge of all claims and demands whatsoever for the services rendered by such judges and solicitors-general during the period covered by such payment.

(2) The Council of State Court Judges of Georgia and the Prosecuting Attorneys' Council of the State of Georgia are authorized and directed to pay into the fund provided for by this chapter monthly employer contributions, including contributions to fund any creditable service authorized by this chapter. Such amounts are to be determined by the board and, together with employee contributions and the earnings of the fund, shall be an amount sufficient to fund the



service and disability retirement benefits under this chapter. The Council of State Court Judges of Georgia and the Prosecuting Attorneys' Council of the State of Georgia are authorized and directed to pay from the funds appropriated or otherwise available any required employer contribution for social security coverage on such members.

(c)(1) It shall be the duty of each employing unit affected by this chapter to designate a responsible person to submit the reports and forward the employee contributions set forth in this Code section. It shall be the duty of the person so designated to comply with this Code section. If the required reports and employee contributions are not forwarded to the board or if duplicate copies of the reports are not directed to the Office of the State Treasurer, in accordance with this Code section, as appropriate, the Office of the State Treasurer is authorized to withhold any state payments payable to the governmental unit failing to forward such reports and employee contributions until such time as such reports and contributions have been received.

(2) It shall be the duty of the clerk of each state court to notify The Council of State Court Judges of Georgia, the Prosecuting Attorneys' Council of the State of Georgia, and the board of directors of this retirement system of the election or appointment of a new state court judge or solicitor-general or the vacating of any such office. Such notification shall be made within two weeks of such election, appointment, or vacancy.

(3) Each employing unit affected by this chapter shall provide The Council of State Court Judges of Georgia, the Prosecuting Attorneys' Council of the State of Georgia, and the board of directors of this retirement system with a list of all employees of the employing unit who are current members of this retirement system. Such report shall be made each calendar month.

(d) All members shall retain, have, and be subject to all other rights, privileges, obligations, and duties otherwise provided for in this chapter; and all such other provisions shall remain of full force and effect with respect to any matter not specifically provided for in subsection (c) of this Code section.

(e) The employee contributions described in this chapter that are paid by the employer are intended to be pick-up contributions in accordance with Section 414(h) of the federal Internal Revenue Code. Such contributions are mandatory, and no member is entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the retirement system. Such contributions shall be 100 percent vested for all purposes under the retirement



system. (Code 1981, § 47-23-81, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2005, p. 535, § 34/HB 460; Ga. L. 2009, p. 753, §§ 18, 19/SB 109; Ga. L. 2010, p. 863, § 2/SB 296; Ga. L. 2010, p. 1207, § 64/SB 436; Ga. L. 2014, p. 223, § 5/HB 843.)

The 2014 amendment, effective July 1, 2014, added subsection (e).

**47-23-82. Contributions by juvenile court judges; employer contributions; reports required.**

(a) The provisions of this Code section shall be applicable to juvenile court judges. The basis for employer and employee contributions to the fund with respect to juvenile court judges shall be the earnable monthly compensation paid to such judges by the employing units paying the cost of the operation of the juvenile courts, unless such earnable monthly compensation exceeds the state earnable monthly compensation paid to superior court judges, as now or hereafter fixed by law, in which event the basis for such employer and employee contributions shall be the same as the state earnable monthly compensation paid to judges of the superior courts.

(b)(1) The employee contributions with respect to juvenile court judges who are compensated by earnable monthly compensation paid by the employing units which pay the costs of the operation of such courts shall be 7 1/2 percent of the amount of such earnable monthly compensation. A person to be designated by each such employing unit shall report the amount of such earnable monthly compensation to the board by not later than the fifteenth day of each calendar month. The employing units are authorized, but not required, to pay any portion of the employee contribution on behalf of the member and to deduct such employee contributions from the earnable monthly compensation of such juvenile court judges and to pay the contributions into the fund. An employing unit which so elects to pay any portion of the employee contribution shall apply such provisions on behalf of all juvenile court judges employed by such employing unit now or in the future, and such provisions shall apply only to the earnable monthly compensation earned by the employing unit's juvenile court judges after the effective date of the election by such employing unit to pay such member's employee contributions. Such contributions shall be forwarded to the board at the same time the report of the earnable monthly compensation of such juvenile court judges is forwarded. The employing unit is also authorized to make an additional deduction from such earnable monthly compensation to cover any required employee tax for social security coverage. The deduction from the earnable monthly compensation payable to such juvenile court judges shall be made, notwithstanding that such



earnable monthly compensation fixed by law for such juvenile court judges is reduced thereby. Such juvenile court judges shall be deemed to consent and agree to the deductions made; and payment of such earnable monthly compensation, less such deductions, shall be a full and complete discharge of all claims and demands whatsoever for the services rendered by such juvenile court judges during the period covered by such payment.

(2) The Council of Juvenile Court Judges is authorized and directed to pay into the fund provided for by this chapter monthly employer contributions, including contributions to fund any creditable service authorized by this chapter. Such amounts are to be determined by the board and, together with employee contributions and the earnings of the fund, shall be an amount sufficient to fund the service and disability retirement benefits under this chapter.

(c) It shall be the duty of each employing unit affected by this chapter to designate a responsible person to submit the reports and forward the employee contributions set forth in this Code section. It shall be the duty of the person so designated to comply with this Code section. If the required reports and employee contributions are not forwarded to the board or if duplicate copies of the reports are not directed to the Office of the State Treasurer, in accordance with this Code section, as appropriate, the Office of the State Treasurer is authorized to withhold any state payments payable to the governmental unit failing to forward such reports and employee contributions until such time as such reports and contributions have been received.

(d) All members shall retain, have, and be subject to all other rights, privileges, obligations, and duties otherwise provided for in this chapter; and all such other provisions shall remain of full force and effect with respect to any matter not specifically provided for in subsection (c) of this Code section.

(e) The employee contributions described in this chapter that are paid by the employer are intended to be pick-up contributions in accordance with Section 414(h) of the federal Internal Revenue Code. Such contributions are mandatory, and no member is entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the retirement system. Such contributions shall be 100 percent vested for all purposes under the retirement system. (Code 1981, § 47-23-82, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2005, p. 535, § 35/HB 460; Ga. L. 2009, p. 753, § 20/SB 109; Ga. L. 2010, p. 863, § 2/SB 296; Ga. L. 2014, p. 223, § 6/HB 843.)

**The 2014 amendment**, effective July 1, 2014, added subsection (e).



**47-23-84. Payment of remainder of accumulated contributions upon death.**

If, upon the deaths of a retired member and, if applicable, a designated survivor, the total monthly benefits paid to the retired member and to any designated survivor do not equal or exceed the retired member's accumulated contributions at the time of his or her retirement, the difference shall be refunded to the person designated in writing by the member or the designated survivor, whichever was the last to receive a monthly retirement benefit under this Code section. If no person has been so designated, the amount shall be paid to the estate of the member or the designated survivor, whichever was the last to receive a monthly retirement benefit under this Code section. (Code 1981, § 47-23-84, enacted by Ga. L. 2012, p. 669, § 1/HB 250.)

**Effective date.** — This Code section became effective July 1, 2012.

**ARTICLE 6****SALARY, RETIREMENT, DEATH, AND DISABILITY BENEFITS****47-23-102. Vesting; benefits upon retirement; compliance with federal income tax laws.**

(a) The right of a member to receive benefits under this chapter shall vest after the member obtains ten years of creditable service; provided, however, that no member shall receive a retirement benefit prior to attaining the age of 60 years. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's accumulated contributions shall be 100 percent vested and nonforfeitable at all times. Any member retiring on or after July 1, 1996, and any member who was retired on July 1, 1996, with 16 years or more of creditable service shall receive a benefit equal to 66.66 percent, plus 1 percent for each year of creditable service over 16 years, of the member's salary; provided, however, that no member shall receive more than 24 years of creditable service. Any member retiring with less than 16 years of creditable service may retire at a reduced benefit pursuant to Code Section 47-23-103. Normal retirement age under this retirement system shall be the date the member has reached age 60 years of age, provided that he or she has at least ten years of creditable service. For purposes of Section 402(1) of the federal Internal Revenue Code regarding distributions from governmental plans for health and long-term care insurance for public safety officers, normal retirement age shall be the earliest date when the member has satisfied the requirements for a retirement under this or the predecessor retirement system. Except as otherwise provided in Article 2 of Chapter 1 of this title, a member's right to his or her



retirement allowance is nonforfeitable upon attainment of normal retirement age. Any member who was retired on July 1, 1996, with more than 16 years of creditable service shall receive in July, 1998, a one-time benefit payment equal to two times the product of 1 percent of the salary paid to such judge at the time of his or her retirement multiplied by the number of years of creditable service in excess of 16 years.

(b) The board is authorized to provide by rule or regulation for the payment of benefits to members or beneficiaries of the retirement system at a time and under circumstances not provided for in this chapter to the extent that such payment is required to maintain the retirement system as a qualified retirement plan for the purposes of federal income tax laws and regulations. (Code 1981, § 47-23-102, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2009, p. 947, § 33/HB 202; Ga. L. 2013, p. 681, § 1/SB 142.)

**The 2013 amendment**, effective July 1, 2013, designated the existing provisions as subsection (a) and added subsection (b).

**47-23-105. Spouses' benefits; ceasing spouses' benefits; vesting; designation of survivors benefits; member who rejected survivor's benefits may later elect such benefits by paying actuarial cost; applicability.**

(a)(1) Except as otherwise provided by subsection (b) of this Code section, each member of this retirement system shall pay for spouses' benefits an employee contribution of 2 1/2 percent of the salary paid to such member. Such contribution shall be in addition to that required under Article 5 of this chapter. The employing unit shall be authorized to deduct monthly the employee contributions required for spouses' benefits. Such contribution shall cease after the member has paid the contribution for a total of 16 years.

(2) Upon the death of a member who is subject to this subsection and who has attained a minimum of ten years of creditable service and at least 60 years of age, the surviving spouse of such member shall be entitled to receive for life a monthly sum equal to 50 percent of the retirement benefit which the member was receiving at the time of the member's death, if retired at such time, or which would have been payable to the member had the member retired as of the date of the member's death.

(3) Upon the death of a member who became a member by operation of Code Section 47-23-40 and who has attained a minimum of ten years of creditable service but had not attained age 60 at the time of death, the surviving spouse of such member shall be entitled to receive for life a monthly sum equal to 50 percent of the retirement



benefit the member would have received had the member continued in service and retired at age 60.

(4) Upon the death of a member other than a member who became a member by operation of Code Section 47-23-40 and who has attained a minimum of ten years of creditable service but had not attained age 60 at the time of death, the surviving spouse of such member shall be entitled to receive for life a monthly sum equal to 50 percent of the retirement benefit the member would have received as if the member were age 60 on the date of death based on the number of years of creditable service the member had on the date of death.

(b)(1) Any member of this retirement system shall have the right to reject the spouses' benefits provided by this Code section by notifying the board in writing of such rejection on a form to be supplied by the board within 90 days after becoming a member.

(2) Any member who becomes a member of this retirement system by operation of Code Section 47-23-40 who rejected the spouses' benefits provided by this Code section pursuant to paragraph (1) of this subsection may subsequently obtain such benefits by so notifying the board in writing and by tendering all amounts which such member would have paid pursuant to subsection (a) of this Code section if such member had not rejected such benefits, together with regular interest thereon.

(3) Any member, other than a member who became a member of this retirement system by operation of Code Section 47-23-40, who rejected the spouses' benefits provided by this Code section pursuant to paragraph (1) of this subsection may subsequently obtain such benefits by so notifying the board in writing and by tendering to the board of trustees such amount as determined by the actuary as necessary to grant such benefit without creating any accrued actuarial liability as to this retirement system. In order to vest for spouses' benefits, the member must have at least ten years of membership service.

(c) If the spouse of a member dies or if a member ceases to be married, then such member who has elected to obtain spouses' benefits pursuant to this Code section may cease making the employee contributions for spouses' benefits. Such member shall notify the board in writing to cease deducting such employee contributions. Such notice shall be given within 90 days after the date of the death of the spouse or after the date the member ceases to be married; and, upon such notification, no further deductions shall be made. When a member ceases to make such employee contributions, there shall be no return of such contributions previously made by such member.

(d) Any member of this retirement system who rejects spouses' benefits coverage or who ceases such coverage pursuant to subsection



(c) of this Code section because such member was unmarried at the time of such rejection, because such member's spouse died, or because such member ceased to be married shall have the option to elect spouses' benefits within 90 days after becoming married or remarried, as the case may be. Any member so electing must make the necessary contributions for spouses' benefits coverage for a total of at least ten years with regular interest thereon in order for such member's spouse to qualify for the spouses' benefits provided for by this Code section.

(e) In order to vest for spouses' benefits, the member must have made the employee contributions for such benefits for at least ten years.

(f) Any member at the time of retirement who has met the conditions of subsection (e) of this Code section may designate a natural person other than his or her spouse to receive a survivors benefit in the same manner and under the same conditions as provided for spouses' benefits; provided, however, that any person so designated shall receive a benefit equal to the normal spouse's benefit actuarially reduced in accordance to such person's and the member's projected life spans. Such actuarial adjustment shall be computed at regular interest upon the basis of the mortality tables and rates of interest last adopted by the board of trustees. Such benefit shall not exceed 50 percent of the member's monthly retirement benefit.

(g) The provisions of this Code section shall apply only to persons who become members of this retirement system prior to July 1, 2012. (Code 1981, § 47-23-105, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 1999, p. 20, § 1; Ga. L. 2000, p. 131, § 1; Ga. L. 2005, p. 535, § 38/HB 460; Ga. L. 2012, p. 669, § 2/HB 250.)

**The 2012 amendment**, effective July 1, 2012, added paragraph (b)(3) and subsection (g).

#### **47-23-105.1. Modification of retirement allowance.**

(a) The provisions of this Code section shall apply only to persons who become members of this retirement system on or after July 1, 2012.

(b) A member may make a one-time election to convert the retirement allowance otherwise payable to him or her into a modified retirement allowance of equivalent actuarial value and designate a natural person to receive a survivors benefit in accordance with one of the options set forth in paragraphs (1), (2), (3), or (4) of this subsection. Such retirement allowance shall be actuarially reduced in accordance to the designated survivor's projected life span. Such actuarial adjustment shall be computed upon the basis of the mortality tables and rates of interest last adopted by the board of trustees. Such election may be made only after the member has become eligible to retire and before the



first payment of his or her retirement allowance normally becomes due. Such election shall be irrevocable except as otherwise provided in this Code section.

(1) Option one, known as the 100 percent joint and survivor option, shall consist of a reduced retirement allowance which is payable during the life of the retired member and which, upon his or her death, shall be continued at the same rate throughout the life of and paid to the designated survivor.

(2) Option two, known as the 66  $\frac{2}{3}$  percent joint and survivor option, shall consist of a reduced retirement allowance which is payable during the life of the retired member and which, upon his or her death, shall be continued at the rate of two-thirds the reduced retirement allowance throughout the life of and paid to the designated survivor.

(3) Option three, known as the 50 percent joint and survivor option, shall consist of a reduced retirement allowance which is payable during the life of the retired member and which, upon his or her death, shall be continued at the rate of one-half the reduced retirement allowance throughout the life of and paid to the designated survivor.

(4) Option four, known as the pop-up option, shall be the election of options one, two, or three, with the added provision that in the event the designated survivor predeceases the retired member, the retirement allowance payable to the retired member after the death of the designated survivor shall be equal to the maximum retirement allowance which the retired member would have been entitled to receive under this chapter had such election not been made.

(c) In the event a member is not married at the time he or she retires and the retired member does not elect a survivor's option and such member subsequently marries, the retired member may elect to begin receiving an actuarially reduced benefit of equivalent value and establish on behalf of the newly acquired spouse an option under this Code section. Such election shall be made within six months after the marriage.

(d) In the event a retired member makes an election under subsection (b) of this Code section on behalf of a spouse and such spouse predeceases the retired member and the retired member subsequently remarries, the retired member may elect to begin receiving an actuarially reduced benefit of equivalent value and establish on behalf of a new designated survivor pursuant to an option under this Code section.

(e) In the event a retired member makes an election under subsection (b) of this Code section on behalf of a spouse and a final judgment of complete divorce from the spouse is entered, then:



(1) The retired member may elect to continue the optional allowance with the former spouse designated to receive all amounts and benefits upon the death of the retired member; or

(2) The retired member may revoke the appointment of such spouse as a beneficiary; provided, however, that in such event the retirement benefit received by the retired member shall not increase. Such revocation may be made at any time after the entry of the final judgment of divorce. If the retired member elects to revoke the election, the spouse shall be treated in the same manner as if he or she had predeceased the retired member under subsection (d) of this Code section.

(f) If an active vested member of this retirement system dies and is survived by a legal spouse, such spouse shall receive a benefit as if the member has retired on the date of his or her death and had elected option three. (Code 1981, § 47-23-105.1, enacted by Ga. L. 2012, p. 669, § 3/HB 250.)

**Effective date.** — This Code section became effective July 1, 2012.

was added at the end of the third sentence of subsection (b) and “as if” was substituted for “as is” in the last sentence of paragraph (e)(2).

**Code Commission notes.** — Pursuant to Code Section 28-9-5, in 2012, a period

#### **47-23-109. Cessation of retirement allowance for resuming state service; required notification.**

(a) Except as provided in subsection (b) of this Code section, if any retired member returns to the service of the state in any position, including, without limitation, service directly or indirectly as or for an independent contractor, except as a member of the General Assembly, his or her retirement allowance shall cease. Upon cessation of such service, the retired member, after proper notification to the board, shall receive the same retirement allowance which he or she was receiving prior to returning to state service, calculated with any increases granted during the period of compensation.

(b) The retirement allowance of a retired member who returns to the service of the state in any position, including, without limitation, service directly or indirectly as or for an independent contractor, other than as a member of the General Assembly shall not cease, provided that such member performs no more than 1,040 hours of such service in any calendar year.

(c) Any state entity that employs a retired plan member, other than for service in the General Assembly as provided in subsection (a) of this Code section, shall within 30 days of the employee’s accepting employment notify the board in writing stating the name of the plan member and the number of hours the employee is expected to work annually and



shall provide such other information as the board may request. If the retired plan member performs more than 1,040 hours of work in any calendar year, the employer shall so notify the board as soon as such information is available. Any employer that fails to notify the board as required by this subsection shall reimburse the retirement system for any benefits wrongfully paid. It shall be the duty of the retired plan member seeking employment by the employer to notify the employer of his or her retirement status prior to accepting such position. If a retired plan member fails to so notify the employer and the employer becomes liable to the retirement system, the plan member shall hold the employer harmless for all such liability. (Code 1981, § 47-23-109, enacted by Ga. L. 1998, p. 513, § 1; Ga. L. 2009, p. 752, § 1/SB 98; Ga. L. 2009, p. 947, § 34/HB 202; Ga. L. 2013, p. 681, § 2/SB 142.)

The 2013 amendment, effective July 1, 2013, deleted “who has not yet reached normal retirement age” following “member” near the beginning of the first sentence of subsection (a); in subsection (b),

deleted “who has reached normal retirement age and” preceding “returns” near the beginning and inserted a comma following “cease” in the middle; and added subsection (c).

CHAPTER 25

MAGISTRATES RETIREMENT FUND

<div>Article 1</div> <div>General Provisions</div> <div>Sec. 47-25-1. Definitions.</div>	<div>Sec. 47-25-42. Calculation of dues and benefits for certain members.</div>
<div>Article 2</div> <div>Administration and Management</div> <div>47-25-20. Board of Commissioners created; members; term of office.</div> <div>47-25-21. Secretary-treasurer.</div>	<div>Article 5</div> <div>Benefits</div> <div>47-25-80. Requirements for receiving benefits.</div> <div>47-25-81. Amount of benefit.</div> <div>47-25-82. Benefits for surviving spouse.</div> <div>47-25-83. Refund of dues.</div> <div>47-25-84. Total and permanent disability.</div> <div>47-25-86. Suspension of benefits if retired member becomes employed as full-time or part-time magistrate.</div>
<div>Article 3</div> <div>Membership</div> <div>47-25-40. Qualifications.</div> <div>47-25-41. Member dues.</div>	



ARTICLE 1  
GENERAL PROVISIONS

**47-25-1. Definitions.**

As used in this chapter, the term:

(1) “Average final monthly compensation” means the average monthly earnable compensation of any employee during his or her highest 24 months of creditable service.

(2) “Board” means the Board of Commissioners of the Magistrates Retirement Fund of Georgia.

(3) Reserved.

(4) “Fund” means the Magistrates Retirement Fund of Georgia.

(5) “Member” means a member of the Magistrates Retirement Fund of Georgia.

(6) “Secretary-treasurer” means the secretary-treasurer of the Board of Commissioners of the Magistrates Retirement Fund of Georgia. (Code 1981, § 47-25-1, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 1/HB 646.)

<p><b>The 2014 amendment</b>, effective July 1, 2014, substituted “Reserved” for the former provisions of paragraph (3), which read: “‘Full-time chief magistrate’ means</p>	<p>a chief magistrate who regularly exercises the powers of a magistrate as set forth in Code Section 15-10-2 at least 40 hours per workweek.”</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------

ARTICLE 2  
ADMINISTRATION AND MANAGEMENT

**47-25-20. Board of Commissioners created; members; term of office.**

(a) There is created the Board of Commissioners of the Magistrates Retirement Fund of Georgia. The board shall consist of seven members as follows:

(1) The Governor or the Governor’s designee;

(2) An appointee of the Governor who is not the Attorney General; and

(3) Five chief magistrates who are members of the fund.

(b) The members of the board provided for by paragraph (3) of subsection (a) of this Code section shall be appointed by the Governor. The first such members shall be appointed by the Governor to take



office on July 1, 2006, for initial terms as follows: one such member shall be appointed for one year; two such members shall be appointed for terms of two years; and two such members shall be appointed for terms of three years. Thereafter, the Governor shall appoint successors upon the expiration of the respective terms of office for terms of three years. All such members shall serve until their successors are appointed and qualified. Such members shall be eligible for reappointment to successive terms of office as members of the board.

(c) The board shall elect a chairperson from among its own membership to serve for a term as established by rules of the board. Four members of the board shall constitute a quorum for the transaction of business. All members of the board shall serve without compensation but may be reimbursed for travel and other expenses incurred by them in carrying out their duties as members of the board.

(d) In the event of a vacancy in the membership of the board, the remaining members of the board shall appoint a chief magistrate who is a member of the fund to fill such vacancy for the unexpired term.

(e) The Council of Magistrate Court Judges shall be authorized to submit the names of nominees for each position on the board appointed by the Governor pursuant to this Code section. The Governor may consider such nominees in making such appointments, but it is specifically provided that all such appointments shall be at the sole discretion of the Governor, and the Governor shall not be required to make any appointments from nominees made by the Council of Magistrate Court Judges. (Code 1981, § 47-25-20, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 2/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted “full-time” following “Five” in paragraph (a)(3); and deleted

“full-time” preceding “chief magistrate” in subsection (d).

#### **47-25-21. Secretary-treasurer.**

(a)(1) There is created the office of secretary-treasurer of the board. The secretary-treasurer shall be elected and appointed by the board and shall serve at the pleasure of the board. His or her compensation and duties may be fixed by the board. In addition to such salary, the secretary-treasurer shall receive credit for a sum of \$1,250.00 per year as dues in the retirement system.

(2) The board or the secretary-treasurer with the approval of the board may employ additional personnel to assist the board or secretary-treasurer in carrying out duties provided in this chapter. The compensation and duties of any such personnel shall be fixed by the board.



(b) The secretary-treasurer shall be paid retirement benefits upon retiring as secretary-treasurer as provided in Article 5 of this chapter for a chief magistrate retiring with the highest benefit allowed by such article and shall be entitled to any retirement option allowed by such article.

(c) The board shall have authority to require the secretary-treasurer to give a good and sufficient surety bond in an amount to be determined by the board. The bond shall be payable to the board and shall be conditioned upon the proper and faithful performance of the duties of the secretary-treasurer. The secretary-treasurer shall be required to make quarterly reports to the board, which reports shall show all receipts and disbursements in such form and in such manner as the board may require. He or she shall likewise be required quarterly to make a full account of all moneys or property coming into his or her hands on behalf of the board at any time. (Code 1981, § 47-25-21, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 701, § 1/HB 292; Ga. L. 2014, p. 835, § 3/HB 646.)

**The 2014 amendments.** — The first 2014 amendment, effective July 1, 2014, substituted “The secretary-treasurer shall be paid retirement benefits upon retiring in an amount equal to the minimum retirement benefit provided under Code Section 47-25-81.” for “The secretary-treasurer shall be paid retirement benefits upon retiring as secretary-treasurer as provided in Article 5 of this chapter for a full-time chief magistrate retiring with the highest benefit allowed by such article and shall be entitled to any retirement option allowed

by such article.” in subsection (b). The second 2014 amendment, effective July 1, 2014, deleted “full-time” preceding “chief magistrate” in subsection (b). See the Code Commission note regarding the effect of these amendments.

**Code Commission notes.** — Pursuant to Code Section 28-9-5, in 2014, the amendment of subsection (b) of this Code section by Ga. L. 2014, p. 701, § 1/HB 292, was treated as impliedly repealed and superseded by Ga. L. 2014, p. 835, § 3/HB 646, due to irreconcilable conflict.

## ARTICLE 3

### MEMBERSHIP

#### 47-25-40. Qualifications.

Before any person shall be eligible to participate in the fund, he or she must be serving as a duly qualified and commissioned chief magistrate of a county of the State of Georgia or as the secretary-treasurer. Any qualified person who desires to participate in the fund shall make application to the board for membership in the fund on a form to be furnished by the board for that purpose, giving such information, together with verification and proof thereof, as may be required by the board. Such application shall be made not later than July 1, 2007, or within six months after becoming eligible for membership, whichever is



later. (Code 1981, § 47-25-40, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 4/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted “full-time” preceding “chief magistrate” in the first sentence.

#### **47-25-41. Member dues.**

Each member shall pay into the fund as dues a sum equal to 3.42 percent of the member’s maximum average final monthly compensation established by subsection (a) of Code Section 47-25-81 per month. Each month’s dues shall be paid not later than the tenth day of that month. (Code 1981, § 47-25-41, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 701, § 2/HB 292.)

**The 2014 amendment**, effective July 1, 2014, substituted “a sum equal to 3.42 percent of the member’s maximum average final monthly compensation established by subsection (a) of Code Section 47-25-81” for “the sum of \$105.00” in the first sentence.

#### **47-25-42. Calculation of dues and benefits for certain members.**

No compensation used to calculate a retirement benefit under the Judges of the Probate Courts Retirement Fund of Georgia shall be used to calculate member dues or retirement benefits under this chapter. (Code 1981, § 47-25-42, enacted by Ga. L. 2014, p. 701, § 3/HB 292.)

**Effective date.** — This Code section became effective July 1, 2014.

## ARTICLE 5 BENEFITS

#### **47-25-80. Requirements for receiving benefits.**

In order for a member to be eligible to receive retirement benefits under this chapter, he or she must have:

- (1) Served as a regularly qualified and commissioned chief magistrate or as the secretary-treasurer for at least eight years;
- (2) Fully complied with this chapter;
- (3) Terminated his or her official capacity as a chief magistrate or as the secretary-treasurer;
- (4) Attained the age of 60 years;
- (5) Filed with the board his or her application for such retirement, on a form to be furnished by the board, within a period of 90 days, or



as soon thereafter as possible, after reaching the age of 60 years or after termination of his or her official capacity as a chief magistrate or as the secretary-treasurer, whichever may occur last in point of time; and

(6) Had his or her application for retirement approved by the board. (Code 1981, § 47-25-80, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 5/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted “full-time” preceding “chief magistrate” in paragraphs (1), (3), and (5).

**47-25-81. Amount of benefit.**

(a) Any member who is approved for retirement benefits as provided in Code Section 47-25-80 shall be paid a monthly sum equal to 4 percent of his or her average final monthly compensation for each year served by the member up to, but not exceeding, a total of 20 years; provided, however, that the final annual compensation used for calculating a benefit under this Code section shall not exceed \$42,781.22 or the amount fixed in the following schedule according to county population, whichever amount is higher:

<u>Population</u>	<u>Maximum Average Final Monthly Compensation</u>
500,000 or more .....	\$ 7,247.87
400,000 — 499,999 .....	6,975.70
300,000 — 399,999 .....	6,703.53
250,000 — 299,999 .....	6,072.65
200,000 — 249,999 .....	5,594.17
150,000 — 199,999 .....	5,132.49
100,000 — 149,999 .....	4,797.70
75,000 — 99,999 .....	4,490.76
50,000 — 74,999 .....	4,183.47
39,000 — 49,999 .....	3,732.53
29,000 — 38,999 .....	3,512.80
20,000 — 28,999 .....	3,293.34
11,890 — 19,999 .....	3,073.88
6,000 — 11,889 .....	2,713.53
0 — 5,999 .....	1,975.98

(b) The board of commissioners is authorized to adopt from time to time a method or methods of providing for increases in the maximum final monthly compensation used for calculating a benefit as provided in this Code section. Such method or methods shall be based upon:

(1) The recommendation of the actuary of the board of commissioners;



(2) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(3) Such other factors as the board deems relevant; provided, however, that any such increase shall be uniform and shall apply equally to all members of this retirement system.

No time for which dues have not been paid in accordance with Code Section 47-25-41 shall be considered in determining the number of years of service. (Code 1981, § 47-25-81, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2010, p. 1207, § 66/SB 436; Ga. L. 2014, p. 701, § 4/HB 292.)

**The 2014 amendment**, effective July 1, 2014, designated the existing provisions of the first paragraph of this Code section as subsections (a) and (b); in subsection (a), substituted “\$42,781.22 or the

amount fixed in the following schedule according to county population, whichever amount is higher” for “\$33,772.20; provided, further, that the”, and added the population table.

#### **47-25-82. Benefits for surviving spouse.**

(a) As used in this Code section, the term “surviving spouse” means the person who was married to a member on the date of the member’s death.

(b) Upon the death of any member who is then receiving retirement benefits and upon the surviving spouse of such member attaining 60 years of age, said spouse shall be paid spouse’s benefits which shall be equal to 50 percent of the retirement benefits then being paid to such member. Such benefits shall be paid for the remainder of the life of such surviving spouse.

(c) Upon the death of any member prior to retirement, the surviving spouse of such member may elect:

(1) To withdraw the dues paid into the retirement fund by the deceased member plus interest at the rate specified by law, in which case the spouse shall be deemed to have waived any right to any benefits; or

(2) To leave such dues in the retirement fund and to receive spouse’s benefits which shall be payable beginning:

(A) On the date of the member’s death, if such member is 60 years of age or older; or

(B) On the date on which the surviving spouse of the deceased member reaches 60 years of age,

whichever event occurs last, and which shall be equal to 50 percent of the retirement benefits which the deceased member was drawing at



the time of death or, in the case of a member who dies prior to his or her sixtieth birthday, which such deceased member would have been entitled to receive upon reaching 60 years of age had he or she lived and ceased service as a chief magistrate or the secretary-treasurer on the date of his or her death.

(d) A member who is unmarried at the time of such election may designate a survivor at the time of making such election. If a member is married at the time of such election, the member may elect a designated survivor other than his or her spouse under this subsection only with the written agreement of the spouse. In any event, the designated survivor shall be a person with whom the member has a familial relationship through blood, marriage, or adoption. The designated survivor designated pursuant to this subsection shall be entitled to a survivor's benefit which is the actuarial equivalent to a surviving spouse's benefit as provided in subsection (b) of this Code section. (Code 1981, § 47-25-82, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 6/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted "full-time" preceding "chief magistrate" near the end of the ending undesignated paragraph in paragraph (c)(2).

### **47-25-83. Refund of dues.**

(a) Any member, after ceasing to serve as a chief magistrate or as the secretary-treasurer and after waiving any right to retirement benefits in writing on a form to be provided by the board, may apply for and be refunded all dues paid, together with 5 percent simple interest per annum from the end of the calendar year in which paid to the end of the calendar year next preceding the application for the refund.

(b) Although retirement pay shall be based on Code Section 47-25-81 and nothing in this Code section shall be construed to alter same, at the effective date of retirement, simple interest at a rate of 5 percent per annum shall be computed on all dues paid from the end of the calendar year in which paid to the end of the calendar year immediately preceding the date of retirement and shall be added to the total dues paid. After all retirement benefits coming due under Code Section 47-25-81 have been paid and if the total thereof shall not be equal to or exceed the above total of dues and interest, then the balance of such principal and interest shall be paid to the estate of the deceased member.

(c) Upon application by the estate of any member who dies prior to retirement and who does not have a surviving spouse who is eligible for benefits under Code Section 47-25-82, all dues paid by such deceased member, together with 5 percent simple interest per annum from the



end of the calendar year in which paid to the end of the calendar year next preceding the application for the refund, shall be paid to the estate of the deceased member.

(d) No dues may be refunded except in strict compliance with this Code section. (Code 1981, § 47-25-83, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 7/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted “full-time” preceding “chief magistrate” near the beginning of subsection (a).

#### **47-25-84. Total and permanent disability.**

Notwithstanding any other provisions of this chapter to the contrary, a member may retire after completing four years of creditable service if he or she becomes totally and permanently disabled after commencing service as a chief magistrate or as the secretary-treasurer. Any such member shall be entitled to receive retirement benefits in the amount that he or she would receive if his or her retirement were effective at the time he or she became disabled. All questions relating to the degree and nature of the total and permanent disability suffered by the member shall be determined by the board. (Code 1981, § 47-25-84, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 8/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted “full-time” preceding “chief magistrate” near the end of the first sentence.

#### **47-25-86. Suspension of benefits if retired member becomes employed as full-time or part-time magistrate.**

(a) If a retired member becomes employed as a full-time or part-time magistrate or chief magistrate, his or her retirement benefits shall be suspended during the period of time he or she holds such position, and upon cessation of such service, his or her prior retirement allowance shall be resumed.

(b) If a retired member becomes employed as a chief magistrate, he or she may elect again to become a contributing member of the retirement system and be governed by the retirement provisions of this chapter. (Code 1981, § 47-25-86, enacted by Ga. L. 2006, p. 246, § 1/SB 244; Ga. L. 2014, p. 835, § 9/HB 646.)

**The 2014 amendment**, effective July 1, 2014, deleted “full-time” preceding “chief magistrate” near the beginning of subsection (b).







